

**TOWN OF BEDFORD**  
**October 13, 2020**  
**PLANNING BOARD**  
**MINUTES**

A remote Zoom platform meeting of the Bedford Planning Board was held on Tuesday, October 13, 2020. Members who were present remotely: Kelleigh Murphy (Acting Chairman), Hal Newberry (Secretary), Bill Duschatko (Town Council), Rick Sawyer (Town Manager), Jeff Foote (Public Works Director), Mac McMahon, Priscilla Malcolm, Steve Clough, Charlie Fairman (Alternate), Matt Sullivan (Alternate), John Quintal (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director)

*Due to the Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Planning Board is using the Zoom platform to conduct this meeting electronically. Please note that there is no physical location for this meeting and the BCTV building is closed to the public.*

*The Town of Bedford is providing public access to the Zoom meeting live on BCTV, streaming at [www.Bedfordnh.org/393/BCTV](http://www.Bedfordnh.org/393/BCTV), and by calling into the meeting. Please email [planning@bedfordnh.org](mailto:planning@bedfordnh.org) or call 603-472-5243 to receive the call-in information.*

*Planning staff will also be accepting questions and comments by email at [planning@bedfordnh.org](mailto:planning@bedfordnh.org). Please notify staff by email if there are technological issues with the audio transmission during the meeting.*

*This application was postponed from the Planning Board meeting held on October 12, 2020 at 7 pm. This October 13<sup>th</sup> meeting will also be conducted electronically and there is no physical location for the meeting. The Town of Bedford is providing public access to the meeting live on BCTV, streaming at [www.Bedfordnh.org/393/BCTV](http://www.Bedfordnh.org/393/BCTV), and by calling into the meeting. Please email [planning@bedfordnh.org](mailto:planning@bedfordnh.org) or call 603-472-5243 to receive the call-in information.*

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

Acting Chairman Murphy called the remote meeting to order at 7:00 p.m. Chairman Jon Levenstein and Town Council Alternate Phil Greazzo were absent. Alternate Matt Sullivan was appointed to vote in place of Chairman Jon Levenstein.

**II. Old Business & Continued Hearings:**

- 3. Circle Drive Associates, LLC (Owner) – Request for approval of a site plan and associated waiver requests for a proposed multi-family residential development to**

include a 142-unit workforce housing development, consisting of two four-story buildings, and a 96-unit elderly housing development (age 55 and over), consisting of one four-story building, and associated site improvements at South River Road across from Iron Horse Drive, Lots 35-98-5 and 35-98-40, Zoned PZ. *This application was tabled from the August 31, 2020 meeting.*

III. **New Business:** None

IV. **Concept Proposals and Other Business:** None

Mr. Connors stated the application was already determined to be complete by the Planning Board at its August 31, 2020 meeting; staff would recommend that the Planning Board accept the agenda.

**MOTION by Ms. Malcolm to accept the agenda as read. Mr. Newberry duly seconded the motion. On a unanimous roll call vote, the motion carried.**

**3. Circle Drive Associates, LLC (Owner) – Request for approval of a site plan and associated waiver requests for a proposed multi-family residential development to include a 142-unit workforce housing development, consisting of two four-story buildings, and a 96-unit ownership elderly housing development (age 55 and over), consisting of one four-story building, and associated site improvements at South River Road across from Iron Horse Drive, Lots 35-98-5 and 35-98-40, Zoned PZ. *This application was tabled from the August 31, 2020 meeting.***

Acting Chairman Murphy stated if the applicant wants to provide an overview and pick up where we left off last time, that would be appreciated.

Mark Woglom of Opechee Construction Corporation, Russ Thibeault of Applied Economic Research, Katie Weiss and Bob Baskerville both from Bedford Design Consultants, Mark Fougere of Fougere Planning & Development, Inc., Bob Smith, principal owner, Rob Smith, and Tom Riley were all present remotely via the Zoom platform to present on behalf of the applicant. Steve Pernaw had a conflict when the meeting got transferred from last night to tonight but hopefully we can get through that.

The PowerPoint was posted on the screen. Mr. Woglom stated as Mr. Connors had indicated, just a very brief recap, and I will say that I am going to do a very brief recap and I am going to go over some of the changes that we have made. I am not going to make an extensive presentation in terms of what we did in the past, but that being said, I am happy to review any aspect of the development.

Mr. Woglom stated we have a total of four buildings, with a total of 238 residences. There were two 71-unit, 4-story workforce housing buildings as well as a 96-unit, 4-story elderly housing building, as well as a clubhouse that supports all of those residences. There are a total of 428 parking spaces, of which 178 are covered by virtue of parking beneath the buildings that is

heated and enclosed. This is a mixed-use development, so along the southerly portion of the site we have a future commercial area that could be developed in the future and would be reserved for commercial development, which has yet to be definitively designed.

Mr. Woglom stated the project status is basically the same as what it was previously. Obviously we are before you as the Planning Board, which is under review, we have been granted a wetland variance from the Bedford Zoning Board of Adjustment for a very small wetland fill, an isolated wetland that is in the middle of the site, and that has been approved by the Department of Environmental Services for a wetland dredge and fill permit. We have submitted a New Hampshire Alteration of Terrain and that has been sent back to us with a series of comments in relation to the Town's consulting engineer reviewing the drainage portions of the site, so that is under review and well along in the way, as well as New Hampshire DOT will need to review, and New Hampshire DES wastewater discharge permit.

Mr. Woglom stated without going through the whole site I just wanted to highlight some of the more prominent things that we have changed on the project. The staff's report extensively goes through all of the changes that we have made, so I am not going to go into all of those areas but to hit on the highlights. There was a request that we add a play area and we have done that over adjacent to the pool, we slid the pool over a little bit, it would be its own isolated area, but still allow parents to oversee children who might be playing in that area. Originally we had the area in the front portion of the buildings, the two workforce housing buildings, we were going to leave wooded. A request was made by staff to convert that to more of a lawn area with a pavilion and staff has further requested that we put some additional walkway through that, which we would not have any objection to. We have made that change. An inquiry was asked at the prior meeting whether the trail would be accessible, and when I say accessible, from persons with disabilities standpoint, and the trail is not required to comply with ADA. The ADA only applies to trails that would be in national parks or that are federally funded and that only applies to the extent the topography and that sort of thing is available. With that being said, we have made changes to the trail so that it would comply with the applicable portions of the ADA were it to be a federal trail. Previously we had not shown a sidewalk connecting down to Route 3; we have since added that and we have added trees along both sides of the road. Originally the thinking was that ultimately a commercial development would happen in there, but given that we don't know when that might happen, it seemed reasonable to add both of those items. The driveway for Route 3 with regard to stacking has been revised so that it works for 45 MPH traffic. There was a request that we add a little bit more around the gravel wetland stormwater system. We have proposed adding some wildflower plantings in that area; staff has requested that we could do something a little bit further and we are happy to work with staff to do that as well. Lastly, this is not particularly a change, but an inquiry was made as to whether the site would accommodate a school bus. We worked with the Town's school bus company and we have gotten concurrence with the layout where they would pick-up. Their primary concern was that vehicles not be parked where they are not supposed to be, which currently has added a problem with other developments in Town, and we have acknowledged that we do not believe that would be a problem, so I think we are all set with those. That is really a summary of the changes and in addition to these changes there are a number of what I will call technical standards and what have you.

Mr. Woglom continued also, part and parcel to that, if you recall, this was the original rendering of the buildings, or one of the buildings. Staff had asked us if we could do some things to enhance some of the architecture. They asked us to look a little bit at the colors and see if we could get a little more contrast. Posted is the original one; the more current one we have added some architectural amenities such as a cupola, stone chimneys, we have changed the siding and trim colors to give a little more contrast, a little differentiation on the building façade, and we have added a stone base along the bottom of the building. That change has occurred to all three of the buildings, actually all four, including the clubhouse.

Mr. Woglom stated as I mentioned, we have gotten the staff report comments, it was a very detailed staff report, we are appreciative of that. The summary of changes is certainly accurate and well put together. Within that staff report there is a potential list of conditions of approval. All of those potential conditions of approval are acceptable to us. There are three items that were included in the staff report that we would like to discuss, probably largely with staff, but maybe with the Board as well. There was a comment about putting some screening evergreens on certain areas along the FE Everett Turnpike sides of the building, we are amenable to do that working with staff to get those in what everybody deems would be appropriate areas. There was a comment at the prior meeting that maybe we could connect the development to Autumn Lane by virtue of a pathway or bridge. Honestly we believe that that would be a burdensome aspect of the project. We believe that 1) steep slopes getting down into there and 2) it would require another wetland crossing, which we don't believe would be looked favorably upon by the State, and it is an access that doesn't get us to anywhere where many of the residents might actually go to, where obviously there is a car dealership there and a number of businesses, but we don't see a lot of potential for pedestrian use. There is pedestrian access to Sebbins Brook Marketplace, which has a number of businesses within it like personal services, shopping, fitness, that sort of thing, which we do have pedestrian access to. Lastly, there was a request that part of our waiver is a waiver for the one covered parking space per unit. There was a request could we do that for the elderly building, could we make it one per unit, we are short of one per unit. The elderly building is somewhere in the neighborhood of 79 or 80 percent. We certainly can do that; we believe that it really would be an aesthetic detriment to the project and we believe that the covered parking that we have provided, which is enclosed, heated, complete elevator access right to the parking is a high value thing that we have provided to the development, and we would request that the Board look favorably upon the waiver for that item, which I will speak to in a little bit more detail.

Mr. Woglom stated there are five waiver requests that we have submitted as part of this application. I am going to go down through each one of these. Staff has provided you with some insight on each of these, and I am going to go through these in the order that staff has requested. Ms. Hebert, would you like me to go through these one-by-one and subsequently request that the Board vote for them, or would you prefer that I go through each one individually? Ms. Hebert responded I think you should go through each one, and it will give the Board a chance to ask questions. They would need to open the public hearing during public comment before any actions were taken. I would go through the waivers and let's see if the Board has some questions that they would like to ask of you. Mr. Woglom stated I will go through all five.

Mr. Woglom reviewed the waivers as follows:

1. *Table 2, Table of Uses, Footnote 10 of the Zoning Ordinance, to allow a workforce housing development on a parcel with frontages along South River Road and the F.E. Everett Turnpike.*

Mr. Woglom stated workforce housing is a permitted use in the zone, but we would request a waiver for the fact that this property has frontage along Route 3 and the FE Everett Turnpike. This is a site that, we believe, will be attractive to the people that would be the buyers of these condominium units, it has really great commuting access and that is an amenity to the working public. They can just head a little bit south, they can go north and south on the FE Everett Turnpike, and go to any number of locations. There is really a limited availability of sites that have this level of desirability. If you were to look up and down this corridor, there isn't much on the other side, and we have left a significant buffer on this site adjacent to the highway. Your ordinances would have let us get much closer to the wetlands and the highway itself; we really have worked hard to keep this site so that there is a lot of green space, there is 80 percent green space where your regulation only requires 20. Because we have done that this site is relatively isolated from these roadways in that it is well set back, you won't even see it from Route 3, and, again, we have left that significant buffer from the FE Everett Turnpike. It does achieve workforce housing in a desirable location and that is an important component. This is workforce housing that will be desirable to both people that are buying from a market rate standpoint and from those who are buying on a workforce affordability basis.

Mr. Woglom stated what is posted shows some aspect about where the site is, it is highlighted in yellow, you can see the number of businesses that are around it and you can see its proximity to the highway and what have you. Posted now is an overview that shows you how far this property is set back along Route 3, and it gives you some indication of the level of trees that are remaining along the highway access.

2. *Section 275-21(4)(c), of the Zoning Ordinance to allow 71 units in both Building 1 and Building 2 where the Ordinance restricts workforce developments to no more than 12 units per building.*

Mr. Woglom stated this site as proposed we have really worked hard to come up with buildings that minimize the impact on the site, we haven't sort of obliterated it with retaining walls and going to every wetland setback or building setback or paving setback that might be within your ordinances. We have increased the green area and we really worked to reduce the visual impact of the buildings. In a second I am going to show you what this might have looked like had we done 12-unit buildings. One of the things that these larger buildings does is it makes it such that we can build buildings that are more economical because they are in one building, and by virtue of that, we are able to do additional building detailing, provide a higher level of architecture than you might otherwise see in workforce housing. Doing such things as having the enclosed heated and attached parking is something that would be difficult to do within 12-unit buildings and honestly this provides a financial benefit to these residents. These people who are going to buy these both from a workforce affordability basis, as well as the people who are buying from on a market rate basis, will have reduced acquisition costs and actually reduced operating costs. As

an example, if we were to do the same or similar quantity of buildings with 12-unit buildings, we would actually end up with 20 buildings, which would mean 20 elevators, 20 electric entry doors, 20 garage doors, in addition, the operating costs for these residences would go up significantly.

Mr. Woglom stated what I am going to show you on these next few slides is some indication of what happens when you do 12-unit buildings. I am going to jump back and forth between a couple of slides but focus on the bottom right of each of these slides. What I have done is depicted a building that is very similar in size and configuration to the buildings that we are proposing, it is sort of averaged out between the 71-unit buildings and the 96-unit building. For the purposes of comparison, I am assuming that we have a 240-unit project in three buildings versus a 240-unit project with 12-unit buildings. I have some numbers over to the left and you can see that the buildings that we are proposing are somewhere in the neighborhood of 326,000 square feet. If I refer to the next slide, you will see a depiction of what this might look like with 2-story buildings. Same exact number of units, same exact sized units, same amount of saleable square footage of units, same mix of units, 2-bedroom and 1-bedroom, and you see that in the darker tan color are 2-bedrooms, the lighter tan is 1-bedroom and you can see where you might have an elevator or an entry and stairs in a building of that stage. Amazingly when you do that, you end up with 432,000 square feet of building with the identical number of units for sale.

Mr. Woglom continued if we were to do this with 4-story buildings that are 12 units each, we would have three per floor and this gives you some idea of how those might layout. Again, this is 400,000 square feet of building. Ultimately what that does is, this chart here shows you that the top portion 221,000 square feet of actual residences, that is the saleable condominium units. If we were to do that in 12-unit buildings with four stories, there would be 80,000 square feet of footprint, in 2 story buildings it would be 144,000 square feet of footprint, versus the 65,000 square feet of building footprint we have now. The buildings that we are proposing, again, are around 326,000 square feet, two stories we would need another 100,000+ square feet of building to be constructed, and with four story buildings we would have about 75,000 square foot more buildings. And if you look at the exterior façade, our buildings as proposed are something just short of 100,000 square feet; if we were to do it in 2-story buildings, that would be 40 percent more, and believe it or not, you would end up with nearly double the façade if you were to do four story 12-unit buildings. What I am getting at with these is that by virtue of building larger buildings on this particular site, it has allowed us to provide something that is more attractive, less intensive from a visual standpoint. We have 40,000 square foot less façade to look at, and more importantly, we have less disturbed area by virtue of the building footprints themselves, and if we were to spread these buildings out on the site, going to the next slide, this sort of gives you a depiction if you had a given piece of land, what it would look like to have these three buildings that we have versus what it might look like with 2-story residences or 4-story residences all of within 12 units. Of course, as you spread the buildings out, you need to spread out the parking, and on a site like this we are going to end up, really you would have needed to obliterate much more of the topography and have significantly more visual impact on it ultimately. If this does make some difference in terms of workforce housing, and this is a very quick number, we are constructing 238 units in total and looking at that at \$180 per square foot, we are talking a project that might be close to \$60,000. If I were to simply apply having to construct 20 elevators, 40 stairwells, certainly I would have more site disturbance. Certainly we

would have a more expensive site and for simplicity sake, I simply added 10 percent to this cost of the square footage and you can see what a huge difference that makes in terms of the ultimate construction project. It simply wouldn't be viable on this site with the amount of infrastructure that we need to put in place for this to be done with the smaller buildings. Could smaller buildings be done on some other site someplace, maybe, maybe you could build 12 units on a site that is removed, a not particularly valuable site to either the workforce people or the market rate people, but I think you would end up with something that would be not as aesthetically attractive as what we have and of questionable financial viability. So that touches on why we think it would be appropriate on this site to construct buildings that are larger than 12 units per building.

3. *Section 275-21 Use Regulations and Table 2, Table of Uses of the Zoning Ordinance, to allow an elderly housing development where it is not a permitted use.*

Mr. Woglom stated by virtue of going with elderly housing, we are able to get a good mix of uses on and abutting the site. Having a diversity of these residential options if you are somebody that is over 55, you might want to live in this building where you know that there wouldn't be children within the building so you sort of have quiet enjoyment but conversely you are part of a community that does have a multi-generational aspect to it. It is consistent with the Master Plan in terms of being all inclusive in the types of people that might want to live in these various buildings, and of course, elderly housing has really no impact on the school system. I will say that we also made this change early on as a request, I believe, from the Board and certainly staff was suggestive of this concept in our initial planning.

4. *Section 322.2.1 of the Land Development Control Regulations, to provide 76 covered parking spaces where 96 are required for the elderly housing development and 102 covered parking spaces where 142 are required as part of the workforce housing development.*

Mr. Woglom stated your ordinances request that there be one covered parking space per unit both for workforce and 55+ units. As I mentioned previously, the parking that we have provided is all underneath the building, you don't look at it at all, it is much more of an amenity for the residents, and it is certainly more expensive than having outdoor sort of covered parking. We would request that the Board grant this waiver for both of them. I will say that there was a request for us to try to add some carports on the 55+ residential units. We can do that if the Board really wants us to do it, but honestly we believe that that would be an aesthetic detriment to the project. It is not something that we want to have a prominent part of the sort of development that we are providing, and we believe that there is a market for people who would want and not want that sort of parking.

5. *Section 275-70(D)(2)(e) of the Zoning Ordinance, to allow stormwater discharge to steep slopes.*

Mr. Woglom stated Sebbins Brook is the low point of this site and the brook has created a channel over the many, many years that the brook has been there. That drainage currently runs to Sebbins Brook and we believe that we have met all of the technical standards that would be

appropriate for good engineering practices to discharge our drainage. It is really the only place that we can drain, and we believe that we have done all of the appropriate things from an engineering aspect that would make that waiver appropriate.

Mr. Woglom stated that is it for us. I am happy to go over any aspect of the project. We really think that we have something that is of relatively low intensity of site development, something that will be great for the residents that will ultimately live there, something that will be a positive financial impact for the community, and we are really trying to deliver something that is not just workforce housing but quality workforce housing, something that will be nice buildings from both an aesthetic standpoint, nice buildings to live in, and importantly a location that will be attractive to all of the ultimate residents of the project. That is essentially the end of our presentation, and we thank you very much for listening. I am happy to take any questions or go over any aspect of this.

Acting Chairman Murphy asked are there any comments or questions from the Board.

Mr. Newberry stated I have a couple of questions relative to the parking waiver. I am just curious, have you done any research related to the percentage of units that would not be interested in covered parking? Mr. Woglom replied no. If I go back a few screens, I can tell you that we have 72 percent of the units that are workforce would have the potential to have a covered space underneath it and on the elderly we have 79 percent. We haven't done market research, per say, but it is relatively atypical that developments of this sort would have one covered parking space per unit. Certainly there are people that would prefer to pay a little bit less in exchange to not having to have a covered parking space, and I think the ratios are fairly high there, but we have not done a specific study for that. To the extent we thought there was a marketing advantage to doing so, we really do not think so.

Mr. Newberry stated I have a questions related to Waiver #5 for the steep slopes. In looking at the site plan that you had up earlier, it looks like everything is nice, smooth, level land. I would like, if you could, just to review for the Board the slopes and any cuts associated with the site overall. Mr. Woglom responded I am going to let Ms. Weiss speak to that. I can tell you that there are a negligible number of cuts. Ms. Weiss, maybe you can give a little idea as to the level of cut and fill that we have. Ms. Weiss stated for the steep slopes, there are only two areas where we are requesting steep slopes. One of them is over by the elderly on the south side. There is a slope that we cut into as far as we can, and then because the slope is steep all the way down to the actual wetland itself, we obviously can't disturb right at the wetland to get the water right down there, so we have a waiver in that area. There is another smaller one like a level spreader, so there is quite a bit of distance that the water is heading down to flat and then steep and then flat and then steep, so that is where that second area has an issue. There are only two places where we are requesting the waiver. All of the other ponds meet their requirements. Mr. Connors asked if you would like, I could show those on the site plan. Ms. Weiss stated please go to Sheet #9. Right at the bottom there is a little call-out with a box around it that says discharge to steep slopes. You can see that the black line is a silt sock, so there is riprap and then a silt sock in that area to help with erosion so that is the one area. Then on the next page down there is another area and this would be over by the emergency access. There is another call-out with a square box around it that says discharge to steep slopes. There is a level spreader and then

treatment swale 1 – 6 and that is discharging technically to the steep slope. We are fairly close to the wetlands and in that area where the slope is steeper. Those are the two areas.

Mr. Newberry stated I would just comment that I found your analysis of the different footprints and the results of those building footprints to be very illuminating. I think that was quite helpful, in my opinion.

Mr. Newberry stated I do have a question related to the access from Sebbins Brook Marketplace but I will yield to the rest of the Board, and if you want to address that later or if it comes up as a question from others on the Board.

Mr. McMahon stated Town Manager Sawyer, could you cover briefly the history of developer's interest in this particular lot. Town Manager Sawyer responded I can certainly try, but I am not sure that I have met with any or all of the developers. There have been a few cases over the years, always residential, but people just calling looking for residential properties, but I am sure that the development team that is on the meeting could certainly speak better to that answer as to how many, if any, inquiries they have taken. As far as I know, nothing super serious has ever moved forward. There was one retail development that was looking at the portion of the site potentially about 10 years ago but that project never moved forward, never had a drawing done as far as I know, certainly never met with the Board.

Mr. McMahon stated I would like to thank you for the ADA walkway and the increase in the green spaces.

Mr. McMahon stated from what was just said by Town Manager Sawyer, it sounds as though you have picked a lot that others may have had difficulty building upon and have used that as one of the reasons for, a valid reason for, trying to develop there. The second reason you use is that it would be screened. I would like to support the staff and have you considered fast growing evergreen trees to be able to block that as much as possible. Other objections for buildings abutting the two major thoroughfares has been the view from the road of these tall buildings, and if that could be done, I think it would, from what I have heard from the citizens, that would make them a lot happier if the waiver for that was granted.

Mr. McMahon stated the last thing I have is I assume your snow removal is going to be where commercial is planned for now, and if that commercial comes in, would you be dumping it just to the opposite side of the road. Mr. Woglom replied no, I don't think we would need to bring snow removal down to that. There are a number of places onsite that would accommodate the snow removal in a relatively traditional fashion. We would not need to bring it down there.

Mr. Woglom stated and I just wanted to follow up a little bit on your question relative to the history. The current owners have owned this property for over 20 years. I have Bob Smith sitting right next to me. Bob Smith stated we bought the property in the late 1990s and we were Car Component Technologies across the street. We had planned to build a factory building over there and we never did that because we ended up selling the business and the property has simply sat vacant since then. We have tried everything. Bob Baskerville has 30 different designs, starting with funeral homes to car dealerships to medical treatment centers, and the only thing

that ever came close was when someone was interested in a rehab center a year ago but they couldn't get the State support they needed. Basically we have looked at every possible use to this property and this is the only one that we could find. I think that the commercial piece that we have left aside lends itself nicely, once this property is developed, to something else, it could well be joined with the property to the south, which will be developed at some point in time, and I think it makes a great use for this piece of property to the Town of Bedford. It is almost in Merrimack, it produces a good financial return to the Town, and it is a place that there are no neighbors here so no one is going to be complaining about neighbors. I think it is a win, win, win, it is a win for us to get rid of the property with help for such a long period of time, and it is a win for the Town because it takes and turns a piece of property into something that will be really beautiful. We have done everything we could to make this a top quality piece of property and put in workforce housing. Mr. McMahon stated thank you very much, Sir. I agree it would be a nice addition.

Mr. McMahon stated the final thing is that the bus people were concerned about the bus if there were cars parked. Does the Fire Department have that same concern and did I remember from the last time that we talked that you said that the fire trucks can get behind the buildings? Mr. Woglom responded the bus concern was people parking in non-designated parking spaces, but certainly we believe that given the quantity of parking spaces, 1) on the workforce housing we have two spaces per unit, when half of the units are 1-bedroom. You would normally expect that there might be one car per a number of those 1-bedroom units, so we think we have plenty of parking. Some other developments in town apparently people were parking in the aisle-ways outside of designated spaces and that created a problem but we don't see that. They wanted to make sure that there would be a management company that they could contact to the extent that a problem arose. As it relates to the Fire Department, the Fire Department has reviewed it. The trucks cannot drive back there but they did ask us to provide a flat access where a ladder could be placed adjacent to the building, and we were able to accommodate that in a fashion that the ladder could go up to each of those. So the Fire Department has indicated that they are comfortable with the layout as proposed. Mr. McMahon stated thank you for your answers.

Councilor Duschatko stated thank you for a very thorough presentation. I think it really gets the point across. I like the way it has been done from your point of view and the way you developed it and presented it. It is a pleasure to listen to this professional approach.

Councilor Duschatko stated having said that, I do have a number of questions. The first one goes back to essentially dealing with a waiver for the parking. This is probably a minor question, but how is that going to be assigned between market value housing and workforce housing? Do they both get the same rights? There are different values on those types of things and it seems to me that percentages, although not absolutely the same, are very close to what is allocated for workforce could have been allocated for market. I just don't happen to think that is a particularly fair breakout and would like to have some information on that.

Councilor Duschatko stated while I am on that topic, and I have two questions here, we are seeing this presented as a condominium project combined with an apartment rental project. I don't want to presume anything but the condominium project could be owned by one person, one ownership entity, and then rented out as individual condominiums. This occurs all over the state

and has for years. Is this a way around perhaps making a conception that we are really looking for apartment uses and sometime down the road will convert it, or not convert it, because you don't have to, but then will sell them individually at higher prices when perhaps some market rates don't affect or the workforce housing rules aren't an impact? It is just a question. I am skeptical because I have seen it go on for 50 years. I am not accusing anybody of anything, but I would just like to have some clarification. Mr. Woglom responded I think there is probably nothing that could prevent a rental of the condominium units. I will say this, that in the current environment, generally somebody who is doing an apartment in today's environment is going to look to do that, you really have to look to the long-term. You are relying on an escalation of rental rates over time to maximize your return. The capitalization rates, or what they would call cap rates when people were buying apartments, are relatively low but they are above the interest rates that somebody would pay for a private residential mortgage. Hypothetically, if I were to buy a unit for \$100,000, which obviously these are going to be more than that, the amount that I would pay on my mortgage would be less than the amount if would need to pay for rent if a developer is going to get even what would be a market rate return. Our goal is to sell these.

Bob Smith stated as it relates to the parking; we went through great lengths to have underground, heated parking and we talked with the Planning Department at the time and were informed that we could charge extra for that service. I think that it all depends upon what we end up doing. Obviously when you have a market rate and a workforce housing, workforce housing is going to have the same benefits as the market rate. We are not differentiating and saying this goes with this and this goes with this. Obviously everything for workforce or for affordable housing has to be equal, except we also asked for permission to make the top floor of these buildings market rate only so we could invest more and have a higher finish rate, taller ceilings, etc. on the top floor, so we put this whole plan together on the basis that the top floor would be market rate units only. Councilor Duschatko responded I understand what you are doing, I would do the same thing in your case, but I am very concerned that it opens it up to certain discrimination charges. We are discriminating against people because of how that is being allowed. It doesn't seem fair to me and it has to be almost a blind pool in a sense of what you are going to get. I am throwing that out only as a question of discussion and it concerns me. At the same time, we deal with a density problem that is not allowed by zoning and you are asking for a major waiver. This occurred a couple of years ago by a majority vote of the Town and they said they wanted smaller units. I find it difficult to represent the community in saying that we are just going to turn around and ignore this density problem, or units per building problem, because the cost per square foot is going to go up 10 percent or 20 percent. We know perhaps the cost of the length go down by 10 or 20 percent also. Mr. Woglom responded actually, if you look at the numbers, the cost per square foot of overall building might only go up 10 percent, but the cost for the building goes up substantially. Councilor Duschatko stated I am certainly aware of that; I am using the numbers that you presented tonight. Mr. Woglom responded sure. No, the 10 percent was cost per square foot, and if I were to go back to the numbers that I showed you, I think you would see that the overall costs would go up somewhere in the order of magnitude of 30 – 35 percent. If we pull them back up, I can give you the exact numbers that I showed. Councilor Duschatko stated I go back to the last part of my question is perhaps the land cost is too great to support that type of development within something that is zoned by the ideas that came forward from the community. I had nothing to do with that. I am just trying to represent this fact that there are a number of people that we as a board represent and we should be cognizant of that and

let's try to get some answers. I have nothing against this development at all, I like it, but by these questions about really how it is being implemented. Mr. Woglom responded sure; I appreciate that. Bob Smith stated to that point, I think it is important that everyone bear in mind it is not a question of what it would cost to do this project or another project, which you have to look at is workforce housing is a 40 percent discount, in other words, it is 60 percent of market rate. I don't believe there is a place in Bedford that you could build workforce housing in 12-unit buildings and have a 40 percent discount, unless it were maybe Section 8 type buildings. I just don't think you could get any quality buildings at a 40 percent discount if you had to go through the added cost the market went through. Councilor Duschatko responded I appreciate what you are saying; I don't appreciate the fact that you classify Section 8 buildings. Section 8 is a voucher plan to the individual, they can live anywhere that they want and are able to by their landlord. It has nothing to do with the building type. Mr. Woglom stated I think you are right. You have to understand that this owner has owned the land for a long period of time, so there is no acquisition cost for the land, so it absorbed it close to 30 years, something of that order of magnitude. But I would suggest to you, we simply would not be able to build workforce housing here and we have stepped up the type of workforce housing on this particular site given the amount of infrastructure that needs to go in there, you need to do something to build this workforce housing. We want it to be attractive to both the market rate and the workforce affordable type of housing. Section 8 probably certainly is not the right word. I think what Bob Smith is trying to get at is you may well be able to build something that is 12 units on a site that doesn't have a lot of topography, a lot of infrastructure requirements, and something that is a relatively unattractive building and accomplish the 12 units on some site someplace. But I don't think that you could develop something that will be as desirable from a location standpoint, an amenity standpoint from being able to go to, for instance, Sebbins Brook Marketplace, you couldn't do it. The land cost has nothing to do with it. You couldn't do it if the land cost was zero. You have to get one or the other in order to get this workforce housing. I recognize that there may be elements of a 12-unit building that may be attractive if you were in maybe a residential neighborhood or something of that nature but we believe it is appropriate on this site. Councilor Duschatko stated I don't disagree with your statement at all. I am concerned about the community's impact that basically said this is what we think is appropriate, and that is all I am trying to right. That question goes a lot deeper than perhaps just this project. That is unfortunate. Mr. Woglom responded sure, I appreciate it, thank you. Councilor Duschatko stated from that point of view, but I think we all have to look at it from that perspective. Mr. Woglom responded thank you.

Mr. Foote stated you mentioned that the school bus company has looked at the radiuses as far as the maneuverability through the site and they said that they can maneuver through the site. That is what you actually proved sending the buses in there or it is just after what you have been through? Mr. Woglom replied it is an engineering exercise. Obviously there is no way to drive a bus in there today. Mr. Foote stated no, as far as the layout. You approve sending two buses in this project if approved? Mr. Woglom replied the SAU directed us to speak with the bus company, and we spoke with the bus company manager, who also happens to be a bus operator and was comfortable with the layout and the pickup as proposed.

Mr. Foote stated in the presentation you mentioned that the project was low density and this made me think in all your effort, and I think as part of the approval of this process, the Town is

going to give up the cul-de-sac at the end of Harvey Road. If it is below this development, why is the Town giving up land to move this forward? Mr. Woglom responded we have actually designed this site such that if that cul-de-sac were to remain in place, that it would have no impact on this development. In other words, the buildings and all of the improvements are outside of that cul-de-sac area, we didn't even disturb into that space. However, we don't think that cul-de-sac will ever happen from a practical standpoint, and it seemed appropriate to make it such that it be lawn or whatever the residents might want to use it as or would like. Mr. Foote asked and if the cul-de-sac remains, would it meet all of the setback requirements? Mr. Woglom answered Ms. Weiss is shaking her head no. Ms. Weiss stated no it would not.

Ms. Malcolm stated most of my questions have been answered already. One thing is the management company to whom the bus company or the Fire Department reports parking violations. Is that onsite or how accessible is that management company? Mr. Woglom replied there will be a management company that would oversee the condominium, and generally a management company is accessible 24/7, they certainly will be accessible at the timeframe that they would need to call and complain. I really don't see that. Really what we are looking at, they actually showed us the developments where it was a concern, and if you went onto Google Maps, you can actually see cars parked outside designated spaces. I think it is extremely unlikely that anybody would want or need to park outside the designated spaces such as they would create a hindrance to the bus. To the extent it did happen, the bus would contact the management company, and obviously if it happened on one given morning, they would have to find out who owned that car and make sure they didn't do it again, but given the configuration of this parking lot and the amount of parking that we have, I think it is really a non-concern.

Ms. Malcolm stated with regard to the Sebbins Brook Marketplace through which you have your emergency access for Fire Department vehicles, what happens if there is a parking issue there? Mr. Woglom replied there is no parking space where that access is. You would have to have a situation where both the primary access driveway into the site was for some reason blocked, be it an accident or whatever, and somebody was parking outside a designated parking space in Sebbins Brook Marketplace. You can never say impossible, but I would say the two combinations happening are highly unlikely. Ms. Malcolm stated thank you very much. I thought your presentation was excellent, and I actually like this project. Mr. Woglom responded thank you.

Mr. Clough stated a great presentation. The AoT permit will be finished when? Will the Board get any chance to provide some feedback on that? Mr. Woglom replied to the extent that there was something that needed to change that had any degree of significance, I would suspect we would have to come back to the Board, unless you have a procedure where staff could handle something that was technical administratively. We have received comments back; we don't anticipate anything that would be any sort of significant change to the plans that you see before you.

Mr. Clough stated I was a little late to the party here as far as being a new Board member; I was going through the historical notes and as was mentioned tonight to Mr. McMahon's point and Councilor Duschatko, the commercial development was not really successful over several decades but you are talking about commercial development at the front of the property. What

makes you think since as was discussed tonight “you have tried everything,” what makes you think that commercial is going to be successful in the front of the property now that you are developing it in this way? Mr. Woglom replied I think it would be whatever might happen on that commercial development has got to be much smaller in scale than might be allowed under 23 acres. You have 23 acres here that is bisected by a stream and almost a ravine type piece of property, you have a fair amount of topography, it would be a difficult site to build something commercially that would be big and flat. So we are able to work this project and work with the contours and develop the site to such a fashion that we have not had to have an extraneous amount of site work. Other uses that have looked at it in the past, be it warehouse or whatever it might be, needed to be big and flat and the amount of site work that you would need to do for those sorts of development and the amount of parking that would typically be attributable to those, loading docks or office for instance might need five spaces per 1,000, something of that order of magnitude, simply doesn’t work from an economic standpoint given the general terrain and shape of the site. So the site is bisected by that ravine and stream; we are ending up with a relatively small portion of commercial use, we think that portion is more appropriate for something that would be a small commercial use in the future, but we don’t know what that is, and we don’t know that it will be. It could be another 30 years before somebody shows up and wants to be there. But it is smaller, there will be infrastructure in place for that and it certainly is a more viable site for something smaller in the future.

Mr. Clough asked could you give me an example of what might be a good commercial vendor that might be at that portion of the property? Mr. Woglom replied in today’s economy, no. I am certain you could put something that is a small office building there, there are any number of uses that are allowed within the zone, possibly some sort of medical use might be appropriate there, and honestly if you look at that land, it might well be suited to go, if the property to the south of it ever got developed, it may well be that that would want to be somehow combined with that property to the south, which would be an appropriate use of that land as I look at it from a development standpoint. You are talking about something that is a couple of acres left that is developable in terms of order of magnitude. Mr. Clough stated that does it for my questions.

Ms. Malcolm stated you wrote at the end of your traffic report and you just brought it up here now, which reminded me, there is a possibility that the commercial area could be purchased or developed by the southerly abutter who has commercial property, etc. Who is the southerly abutter? Mr. Woglom replied that is Stewart Steel. Ms. Malcolm asked what could they do? Mr. Woglom responded software property development, things like that. Ms. Malcolm stated thank you.

Town Manager Sawyer stated I have a couple of comments. My quick math when you had the slide up had it at a 35 percent increase in sale price cost of the workforce units but it would be good to get that number officially on the record before the end of the night. Mr. Woglom interrupted could I just clarify that; that is not sale price. That is purely a rough construction cost. Town Manager Sawyer stated I think you had it labeled as unit price maybe. Mr. Woglom stated we did a total price and we divided it by the number of units, but more importantly, that has no correlation to sale price. I am a contractor by trade, so all I have done is the contractor portion. All of the ancillary costs, the legal, permitting, impact fees, construction financing, etc.,

etc. would add to the project cost and ultimately there would need to be markup on top of that for the developer to be able to finance the building. So that is not a sale price by any means, simply intended to give you some reference as to the sort of impact, because doing 12-unit buildings versus the larger buildings, really the impact is less so on those soft cost items and more so on the construction cost, which I am most familiar with. Town Manager Sawyer stated I still think it would be good, while other people are asking questions, if you could put on the record at some point tonight what the percentage change was. I had it at 35 percent, but I think it would just be good to have an official response from you as the percentage change between those two prices. Mr. Woglom responded I would be happy to do that. If I went back to that, I can give you that exact percentage. Town Manager Sawyer stated when you get a chance to put it on the record.

Town Manager Sawyer stated staff can correct me if I am wrong on this one, but in response to Councilor Duschatko's question on covered parking, I think it would be allowable for the Planning Board to condition, if they wanted to grant Waiver #4 for covered parking, that they could make a condition that the covered parking be provided in the same ratio of market rate versus workforce and affordable housing units. Is that true? Ms. Hebert responded I agree. You could set aside 25 percent of the covered parking.

Town Manager Sawyer stated I have one comment/question for Mr. Connors and then two more for the applicant. Mr. Connors, Condition #28, *'Prior to the issuance of a Certificate of Occupancy for the residential buildings, all site improvements (associated with each use) depicted on the plan shall be completed or in the case of winter conditions, bonded with the appropriate financial guarantees.'* I feel like that should say *'Prior to the first Certificate of Occupancy being issued....'* so that we are making sure that the offsite improvements are being completed prior to the first building opening. I was afraid that might get confused later on as allowing those improvements to be done much later on in the project. Mr. Connors responded *'Prior to the issuance of a Certificate of Occupancy for the first residential building, ...'*. I think that would be a good change. Town Manager Sawyer stated I believe that is what you intended is that those would all be done before the first building opens.

Town Manager Sawyer stated for the applicant, can you just confirm that the elderly units are also ownership units? Are those condos as well? Mr. Woglom responded yes.

Town Manager Sawyer asked are you able to indicate where you think the carports would go on the elderly lot if we required them to be built? Mr. Woglom replied I have an idea where it could go, and if we were to pull up a plan on that, I could show you. I think on the back portion of that parking lot there is a place that we could construct those if we need to. Town Manager Sawyer asked likely the southerly end of the parking? Mr. Woglom responded that's correct; southerly end of the parking. Town Manager Sawyer stated I think it was 12 together and then there is another five or eight. Okay, that is where I figured you were looking if you had to do it. Mr. Woglom responded correct. Town Manager Sawyer stated I appreciate it.

Mr. Woglom stated just to confirm, we did just look it up and the number that I put together was 35 percent. Your math was right. Town Manager Sawyer responded thank you

Mr. Sullivan stated coming in at the last of the line I realize a lot of my questions are going to be answered already. I will say I really do appreciate the presentation like the rest of the Board and the staff, especially the way that you have taken many of the suggestions over the past months and incorporated them into the plans that you presented tonight.

Mr. Sullivan stated the one thing that jumped out at me going back to the site walk, which I think it was the end of July, and now is there removal of that commercial aspect of it and yet it is still being called mixed-use. I understand that elderly, workforce housing, market rate does constitute mixed-use, but really at the end of the day it is all residential. I would like to understand as these waivers go forward, especially in this zone where we are supposed to have more innovative use, what is the anticipation of a timeline around that commercial use development. Mr. Woglom responded I think that is a very difficult thing but it is certainly market driven. I don't think we would have any problem putting a stipulation in the plan that that land could not be used for residential purposes, assuring that ultimately the land use there was commercial in nature. But I think the market would determine who might buy that and when. It is so difficult to pick something today. Mr. Sullivan asked Ms. Hebert, is that a condition we can put in? Ms. Hebert replied yes, that is a condition you can add.

Mr. Fairman stated I don't really have any questions; I just have a comment to the Board. Unlike Market & Main, the waiver we turned down for Market & Main a couple of weeks ago, the waivers that these people are requesting are directly to the petitioned changes to zoning that the Town voted on two years ago. Market & Main was not that, but this is specifically, directly waiving the petition driven zoning changes the Town voted on two years ago. That is all I have. Thank you.

Mr. Quintal stated thank you for your presentation. The property looks great; I think it will be a great benefit to the Town of Bedford. Regarding what Councilor Duschatko brought up earlier, would the condo association have a restriction as far as the percentage of units that could be rented out by non-owners? Mr. Woglom responded we have not contemplated that nor gotten to the condominium documents. Mr. Quintal replied okay; that is all I have.

Acting Chairman Murphy stated before we open it up for public comment, I just wanted to circle back. There were a lot of questions from a lot of Board members. Raise your hand if you have any follow-up questions before we turn to public comment.

Mr. McMahon stated I do have a request for another comment. When we last met on this, Mr. Sullivan made a comment at the very end that raised a red flag for me. Mr. Sullivan, I am sure you remember and that was you pointed out that there is a zoning regulation specifically that disallowed this. I would like to combine that with Councilor Duschatko's concern about the placement in a zoning area. When Mr. Sullivan made that comment, the first thing that came to my mind was we as a Board how would we be able to explain to our constituency why we would pass this particular plan, and the things that came to mind to me was 1) as we have already discussed, that no one today has seemed to be interested in it nor have they had any inclination to make this commercially feasible, and 2) if you combine that with the screen that would be provided by trees, and I again ask the applicant to consider rapid growing coniferous trees to go in there, that we would be able to explain to the townspeople why we allowed this particular

thing in and why it differed from other applications that we have addressed. That is a way of me saying that I agree with both Mr. Quintal and Mr. Sullivan, and Mr. Sullivan I thank you for that because I have been thinking about that ever since that first meeting. Thank you.

Councilor Duschatko stated I am looking for some clarification. If we approve this, are we approving the fact that we are basically allowing them to set aside certain units of higher values, the penthouse units, the fourth floor units, higher than the workforce housing? My understanding is there is not supposed to be a clear discrimination between affordable, workforce housing, or whatever you want to define it, and market rate. I just think we are leaning ourselves into a potential situation that could be embarrassing to everybody involved here. I would just like total clarification on that particular point. I could very easily be misinterpreting the rules and regulations but it really bothers me. I think we have to consider that also. Thank you. Ms. Hebert stated I can speak to that question. The workforce housing requires that 25 percent of the units be set aside as affordable, leaving 75 percent all market rate, so they can have varied amenities that make them fall into various market rate categories. The units need to be mixed within the building, you wouldn't be able to put all of the workforce units on one level, per say, they would have to be reasonably intermixed. So as long as those units are reasonably intermixed with the other 75 percent market rate units, I believe they are meeting the intent of the zoning. Councilor Duschatko stated yes but they came out clearly and said they want a reservation of all of the units on the top floor to be market rate. That is not integrated. Ms. Hebert responded that is not uncommon. We have other apartment buildings in Bedford that do that because the top floor often has taller ceilings and the ability to fit those units with different amenities. As long as the units are 25 percent of the units are intermixed within all of the other floors and not discernable from the other units, I think you are meeting the intent. Councilor Duschatko stated I guess fortunately I am not into the basis of fighting that type of thing, but I think you are just asking for trouble. That is my opinion. Ms. Hebert stated we should remind folks how many units we are talking about. We use the term workforce housing when we describe the project but the workforce units make up 25 percent of the apartment units in the development.

Councilor Duschatko stated none of these are apartment units, they are all for sale units. We were told that. Ms. Hebert stated they are apartment units for sale, yes. Councilor Duschatko stated hold on. They are units in a single structure. Is that now classified as an apartment unit? Ms. Hebert responded they are apartment units that have been condominiumized, which is a form of ownership. Councilor Duschatko asked does the condominium exist? Ms. Hebert replied you would need to approve the condominium as a separate subdivision application, and it is included in your list of conditions if you choose to approve. Councilor Duschatko responded I am sorry, what are we supposedly voting on then? These are all apartment units then. Ms. Hebert stated you are voting on the building design and the site development. You need to vote on the subdivision of that development into individual condominium units at a later date. Councilor Duschatko stated but we have been told that these are for sale units. In fact, they were asked twice. There was a great confusion. First it was "condominium units for non-age restricted" and then there is an apartment unit for age restriction, which tonight became a for sale unit. I don't know what is going on. Ms. Hebert responded it is a separate application and it is listed as a condition of approval, so it is one of the conditions that would need to be satisfied. Councilor Duschatko stated I am sorry I missed that. I apologize. Mr. Sullivan stated I believe it is

Condition #25. Ms. Hebert stated that is correct. Mr. Quintal asked they have to come back for the condo project, if we disapprove of the condo project, then is it just rental units that are apartments? Ms. Hebert responded it would be unusual to disapprove an application for a condominium. The Planning Board reviews the condominium application as a form of subdivision, it is really modification to the ownership of the units and it is a subdivision as it is defined under our land use regulations and State law but it is more of an administrative procedure. Mr. Quintal responded okay. Mr. Fairman stated Ms. Hebert, going back to make sure. There are no apartments, no rental units, these are all for sale units that will all be covered in a condominium association plan that has yet to be done and has to be presented to the Town. Ms. Hebert replied yes, it would need to be presented to you and you would have an opportunity as a Board to also review those condominium documents. That would go along with the condominium subdivision. A question did come up on whether or not these units could be purchased by an investor and then rented and that is a good question and that aspect may need more discussion. Mr. Fairman asked why would we approve this site plan without the condominium plan? Ms. Hebert responded you need to have more details in order to approve a condominium plan, you need to have more developed architectural plans under our State law, so it is not typically done in tangent with the site plan. It is typically done after the site plan and then there are additional plans that need to get recorded once the building is constructed, there are as-built plans that need to be filed, and the Attorney General from a consumer protection standpoint highly regulates condominiums and condominium sales. There are many legal documents and that condominium subdivision is just one piece of that application process. Mr. Woglom may want to add to that. Mr. Woglom stated certainly that is the case. A lot of it is related to building. So when you do a condominium, you need to record building plans that define the limits of each individual unit, you need to define areas within the building that are common areas or limited common areas, and so there is a legal aspect and a planning aspect to it, and, again, as Ms. Hebert indicated that it is regulated by the State Attorney General's office. It is typical for us to do that. There is a legal process beyond a planning process, and it is a condition of approval that we submit that to you. Mr. Fairman stated thank you very much.

Councilor Duschatko stated I am sorry; you are dancing around this thing. Because the condominium devolves in phases and bringing them in, the phases will define the common areas up front, common areas should be defined, I believe, in a general approval of a plan of a building type of concept. Perhaps we don't have to get into the detail of the interior construction and the interior spaces, but we certainly should have an idea of what we are really talking about in terms of the external common lands that are going to be owned by either Condominium 1, 2, 3 or they can be consolidated or is it going to be a commercial condominium coming in there later. I can go for approving a concept, but I cannot go and approve a subdivision or a plan with a bunch of waivers without knowing the details, and I think that is foolish on our part if we think we can do that. I am sorry, we are putting the cart before the horse or vice versa. I would like to see the full package because things change too often. We have been through this already for the past five years and perhaps we should learn from those mistakes. Thank you. Ms. Hebert stated Councilor Duschatko, you would have an opportunity to review all of those items as part of the condominium subdivision. That is a condition of approval. You could modify that to say before a building permit is issued, the condominium subdivision. Councilor Duschatko responded it is not the permit; it is the whole concept of this plan. There are a couple of different things, at least what I read, for sale, for apartments, whatever, a commercial thing, that changes. It doesn't

make sense. I think everybody has picked up on this, and all I would like to have is a little bit of direction that is consistent instead of them coming back and going to do this in two months, two weeks, two years, 20 years. Ms. Hebert stated it would be unusual to have the condominium plan developed right now. You would have to have the walls defined, those becoming the property lines that define the condominium units and they would have to be set for every floor on the building, and then the common areas would be determined. You could ask the applicant to come back for the conceptual condominium layout for each of the buildings, and that would give the Board a general idea of what the unit makeup will be inside the building. I think you have floor plans as part of your application. Each unit would become a separate condominium unit, the hallways would become common areas and limited common areas. Councilor Duschatko stated let me back up. Let's just call them condominium pads. Where these buildings are going to be, can we define. Ms. Hebert stated so the condominium is more than just the building and walls of the units. Councilor Duschatko stated I am done.

Acting Chairman Murphy asked for any comments or questions from the public via the remote Zoom platform. Have we received written comments? Mr. Connors replied we didn't receive any recent ones. We did receive one back in August that I meant to include in your packets but I forgot, and that is from the owner of the Sebbins Brook Marketplace. I will read it into the record. "I am the owner, Mr. Sandu, of the Sebbins Brook Marketplace at 410 South River Road, which is the property adjacent to this property on the agenda tonight for approval of the site plan. Please let this email serve as our voice in support for the approvals of the proposed project on the agenda tonight. This has been a long time in coming but we are excited to see new development finally coming to this part of Bedford. The Smith family has been very helpful to us when we built Bedford Motor Inn, we all worked together to bring utilities from across the road and extend them back to our site and for the future when the lands around us are developed. These utilities could be used to facilitate that development, and we are very glad to see the workforce housing and elderly housing as part of this project. We feel it will go a long way toward defining the neighborhood and help small businesses in this area. Again, I am in support for this project and look forward to seeing the entire area come into its own." That is the only email we have received on the project.

Acting Chairman Murphy stated if the applicant has any response to the public comment that was just read or anything else that they would like to add, feel free to chime in, and if you don't, we will move on. Mr. Woglom responded no; thank you. We appreciate all the time from everybody.

Tom Riley stated I want to thank Acting Chairman Murphy, Mr. Connors, Ms. Hebert, Town Manager Sawyer, and everybody. They have spent a lot of time and energy on this project. It has been many, many, many months. I want to quote Yogi Berra "It is almost like something all over again." My family has been in this town for five generations and I have seen this up and down and up and down, and for someone who sat in Councilor Duschatko's seat many, many times, I am very disappointed that he doesn't understand the concept on how these have been approved. I would have thought he had by now. But the point being is that when we did Rose Hill in Bedford, we had the same comments that people didn't want apartments coming to Bedford and we did, and today they were one of the most acceptable housing units in Bedford. It would have been nice if past Planning Boards understood that other developers tried to plan

many, many units in bad locations, bad looking, and other Planning Boards didn't see that coming because it hurt this development and other developments like it. This development is the epitome of what we need in Bedford. When I was working for the highway department as a kid, there was no housing, no affordable work housing in Bedford. I had to leave town. I was talking to your Sewer Commissioner and he had to do the same thing. This is exactly what we need.

Mr. Riley continued in answer to the constituents; I sat as the Chairman of the Town Council, for 20 some odd years I was on all of these boards, and we need to service all of the people. That is why when we wrote, I was involved with the Performance Zone zoning, and we gave you, each and every one of you, the authority to waive these regulations and it was given so that you met all of the people, not the 2,000 people out of 26,000 people in town, but you could represent all of the people, the people that needed a place to work, needed a place to live, and wanted to stay in our beautiful town. Thank you all.

Mr. Riley stated I know this is a lot of time, it is a lot energy and a lot of evenings and you, like me, are getting Zoomed out, but no matter what, I hope you see that from the very beginning, the very beginning, we listen to each and every one of you, we listen to your comments, we listen to your requests, because you didn't give us any demands, you all gave us very good requests. I love the idea someone said something about growing trees tonight. That is a great idea, and I guarantee that that will be done. Someone else said something about the condominium documents; Ms. Hebert got it right on. The cost to do condominium documents until it is approved is astronomical. To go to the Attorney General's even with the concepts, you have to do a full set of architectural, even partial sets is tens of thousands of dollars. Mr. Woglom could tell you better but architectural fees will be \$200,000 - \$300,000. That is why it is done after approval. Again, thank you. Thank you from the bottom of my heart. Like I said, my family has been here for five generations and it is nice to see that we have a Board that really listens to us and hopefully we listened to you, and no matter which way it goes, I appreciate all of your efforts and concerns.

Acting Chairman Murphy stated I will close the public hearing. If there are any further comments from Board members, raise your hand and I will call on you.

Mr. Newberry stated in relation to one of the points that Mr. Riley just made and something that I was planning to comment on, and I think part of our responsibility and job as a Board is to look at the proposals that come before us, look at the regulations, and also the waiver capability. The waiver capability in my mind is meant to address that one size does not fit all necessarily. Part of our job, part of our value to this whole process is to look at the proposal, look at and listen to what the developer is bringing in the way of requests for waivers and how they justify it and request a waiver we support. I think in this instance the applicant has made pretty clear that the 12-unit requirement does not yield a quality development on this site, and I think we need to give that serious consideration when we consider approving this waiver. I think Waiver #3 for the elderly housing is also an added value and makes the entire proposed development a greater value to the entire community. I think concerns about visibility with this particular site, I don't think other than to some limited extent from the turnpike, people that are passing through town primarily, is even going to be visible. I think that given the topographic challenges in this particular site, this development as has been proposed, provides a quality answer to developing a

parcel, which because of its topographic challenges and usability, is likely not to be developed any time in the near future, other than maybe to a less desirable type of development. I just wanted to make those points and comments because I think that this is an opportunity, even though, yes, portions of the town have expressed they don't want to see large buildings, they don't want to see bigger than 12 units, I think in this instance a waiver makes sense. Does it always make sense? Absolutely not. But in my view, this particular development I think has a real quality aspect to it and it is going to yield a quality development. Thank you.

Vice Chairman Murphy stated as a housekeeping measure, I think it makes the most sense to take the waiver requests individually.

Mr. Clough asked so there is no public comment on this? Acting Chairman Murphy responded I already took public comment and then I closed the public comment period. Mr. Clough stated okay.

**MOTION by Mr. Newberry that the Planning Board approve the waiver request from Table 2, Table of Uses, Footnote 10 of the Zoning Ordinance, to allow a workforce housing development on a parcel with frontages along South River Road and the F.E. Everett Turnpike for the following reasons:**

- **The applicant has provided sufficient evidence that the proposal meets the Purpose Statements of the Performance Zone (Section 275-58 of the Zoning Ordinance).**
- **The applicant has provided sufficient evidence that the proposal will be economically beneficial to the Town and will not preclude growth of the commercial tax base. The proposal also advances the Draft Master Plan goals to continue to provide opportunities for housing choice and realistic opportunities for workforce housing development in Bedford.**

**Mr. Sullivan duly seconded the motion. On a unanimous roll call vote, the motion carried.**

**MOTION by Mr. Sullivan that the Planning Board approve the waiver request from Section 275-21(4)(c) of the Zoning Ordinance, to allow 71 units in both Building 1 and Building 2 where the Ordinance restricts workforce developments to no more than 12 units per building.**

- **The applicant has provided sufficient evidence that the proposal meets the Purpose Statements of the Performance Zone (Section 275-58 of the Zoning Ordinance).**
- **The applicant has provided sufficient evidence that it is not economically feasible and/or environmentally beneficial to provide workforce housing in a development where structures are limited to a maximum of 12 units.**

**Ms. Malcolm duly seconded the motion. Acting Chairman Murphy called the roll. Those voting yea: Mr. Newberry, Mr. McMahon, Ms. Malcolm, Town Manager Sawyer, Mr. Sullivan, and Acting Chairman Murphy. Those voting nay: Councilor Duschatko, Mr. Foote, and Mr. Clough. The motion carried.**

**MOTION by the Planning Board approve the waiver request from Section 275-21 Use Regulations and Table 2, Table of Uses of the Zoning Ordinance, to allow an elderly housing development where it is not a permitted use.**

- **The applicant has provided sufficient evidence that the proposal meets the Purpose Statements of the Performance Zone (Section 275-58 of the Zoning Ordinance).**
- **The applicant has provided sufficient evidence that the use will be economically beneficial to the Town and of the benefits of providing a multi-generational housing development, including one that includes a mix of workforce housing and elderly housing units.**

**Ms. Malcolm duly seconded the motion. Acting Chairman Murphy called the roll. Those voting yea: Mr. Newberry, Mr. McMahon, Ms. Malcolm, Councilor Duschatko, Mr. Foote, Town Manager Sawyer, Mr. Sullivan, and Acting Chairman Murphy. Those voting nay: Mr. Clough. The motion carried.**

**MOTION by Mr. Newberry that the Planning Board approve the waiver request from Section 322.2.1 of the Land Development Control Regulation to allow reduced covered parking for the workforce housing use and to not allow the reduced covered parking for the elderly housing use, and from Section 275-70(D)(2)(e) of the Zoning Ordinance to allow stormwater discharge to steep slopes for the reasons stated in the staff report. Mr. Sullivan duly seconded the motion.**

Mr. Foote asked is it possible to have a roll call on each of these two motions that were included in the motion? Acting Chairman Murphy replied certainly. Acting Chairman Murphy restated the motions as noted below.

**MOTION by Mr. Newberry that the Planning Board approve the waiver request from Section 322.2.1 of the Land Development Control Regulation, to allow reduced covered parking for the workforce housing use and to not allow the reduced covered parking for the elderly housing use. Mr. Sullivan duly seconded the motion. Acting Chairman Murphy called the roll. Those voting yea: Mr. Newberry, Mr. McMahon, Mr. Foote, Ms. Malcolm, Town Manager Sawyer, Mr. Sullivan, and Acting Chairman Murphy. Those voting nay: Councilor Duschatko and Mr. Clough. The motion carried.**

**MOTION by Mr. Newberry that the Planning Board approve the waiver request from Section 275-70(D)(2)(e) of the Zoning Ordinance, to allow stormwater discharge to steep slopes for the reasons stated in the staff report. Mr. Sullivan duly seconded the motion. Acting Chairman Murphy called the roll. Those voting yea: Mr. Newberry, Mr. McMahon, Councilor Duschatko, Ms. Malcolm, Town Manager Sawyer, and Mr. Sullivan. Those voting nay: Mr. Foote, Mr. Clough, and Acting Chairman Murphy. The motion carried.**

Acting Chairman Murphy stated at this time we can either take a motion for the site plan or we can request that the applicant return with revisions to address any comments or we could do a number of things. What is the pleasure of the Board?

**MOTION by Mr. Newberry that the Planning Board grant approval of Sebbins Brook Crossing site plan for a 142-unit workforce ownership housing development and a 96-unit ownership elderly housing development and associated site improvements on South River Road, Lots 35-98-5 and 35-98-40, Zoned PZ, in accordance with the site plans by Bedford Design Consultants, last revised September 23, 2020, and the architectural elevations by Opechee Construction Corp., dated October 12, 2020, with the following conditions to be fulfilled within one year and prior to plan signature, and the remaining conditions of approval to be fulfilled as noted:**

- 1. In the event that the Planning Board approves the waivers, the plan shall be updated to list any waivers granted as approved.**
- 2. The Director of Public Works and the Planning Director shall determine that the applicant has addressed all remaining technical review comments to the Town's satisfaction.**
- 3. The NHDES Sewer Discharge Permit number and approval shall be noted on the plan.**
- 4. The NHDES Alteration of Terrain Permit number and approval shall be noted on the plan.**
- 5. The NHDOT Driveway Permit number and approval of the work in the state right-of-way shall be noted on the plan.**
- 6. A lot merger application shall be approved by the Planning Board to combine the parcels as shown on the plan.**
- 7. A letter from Manchester Water Works stating that they will be able to serve this project shall be submitted to the Planning Department.**
- 8. The Applicant shall submit any outstanding engineering review fees to the Planning Department.**
- 9. A performance guarantee in an amount approved by the Town for onsite maintenance of erosion and sedimentation controls and for off-site improvements to South River Road shall be placed on file.**
- 10. The applicant shall submit a Phasing Plan for the development subject to review and approval by the Planning Department, the Department of Public Works, and the Fire Department.**

11. **The landscape plan shall be revised to show the locations of proposed evergreen trees behind the residential building. Enough vegetation shall be provided to help screen the buildings from the F.E. Everett Turnpike. Additional landscaping shall be provided to help screen the gravel wetland basins from the access driveway. The final landscape plan shall be to the satisfaction of the Planning Director.**
12. **The plan shall be revised to include accommodations for seating in the center pavilion. Pedestrian pathways shall be provided through the park between the workforce housing buildings to accommodate pedestrian traffic.**
13. **The applicant shall provide the Planning Department documentation that the school bus circulation route and bus stop location are to the satisfaction of the Bedford School District and/or its school bus provider.**
14. **The applicant shall revise the plan to indicate the playground will be constructed in tandem with the residential development and not at a future date. The applicant shall submit details for the proposed playground structures and equipment, which shall be to the satisfaction of the Planning Director.**
15. **The Land Disturbance and Stormwater Management Permit shall be approved by the Department of Public Works. If complying with the permit requires changes to the plan, the applicant shall return to the Planning Board for site plan amendment approvals.**
16. **The plan shall be revised to show an accessible pedestrian route from the elderly housing development to the waste disposal facilities.**
17. **The plan shall be updated to note the approximate area of a future access connection to the abutting lot to the south, Lot 36-98-42. An agreement to convey an easement should be drafted and recorded. The easement language shall be to the satisfaction of the Planning Director.**
18. **The plan shall be revised to include 20 covered parking spaces for the elderly housing use. The revisions shall be to the satisfaction of the Planning Director.**
19. **The applicant shall finalize the discontinuance of the portion of the Harvey Road right-of-way through the site consistent with the Town Council's approval on June 24, 2020.**
20. **Arrangements will be made with the Planning Department and Public Works Department regarding payment and coordination of third party inspections for the site improvements.**
21. **The applicant shall provide a deed restriction, easement or other suitable legal documents to restrict 25 percent of the units to workforce ownership housing and to demonstrate compliance with the affordability requirements of Article 275-21B(4) for a minimum period of 30 years. All documents shall be reviewed and approved by the Town's legal counsel.**
22. **The applicant shall provide a deed restriction, easement or other suitable legal documents to restrict 25 percent of the elderly housing ownership units to affordable units to demonstrate compliance with the affordability**

- requirements of Article 275-21B(2) for a minimum period of 30 years. All documents shall be reviewed and approved by the Town's legal counsel.
23. The applicant shall establish a procedure acceptable to the Planning Department for reporting that the workforce housing units are meeting all necessary requirements.
  24. Prior to commencement of work, a pre-construction meeting shall be held with the Planning Department, Department of Public Works and the Building Department.
  25. Prior to the issuance of a Certificate of Occupancy, a condominium subdivision plan and associated documents shall be approved by the Planning Board and recorded at the Hillsborough County Registry of Deeds.
  26. Prior to the issuance of a Certificate of Occupancy, the sewer accessibility fee shall be paid.
  27. Prior to the issuance of a Certificate of Occupancy for the residential buildings, all site improvements (associated with each use) depicted on the plan shall be completed or in the case of winter conditions, bonded with the appropriate financial guarantees.
  28. Prior to the issuance of a Certificate of Occupancy for the residential buildings, the off-site improvements to South River Road shall be completed.
  29. Prior to the issuance of a Certificate of Occupancy for the residential buildings, the school and recreation impact fees shall be paid.

**Mr. McMahon duly seconded the motion.**

Acting Chairman Murphy stated we can discuss the modifications that need to be made.

Councilor Duschatko stated as I understand that motion, there is not a definition of the type that the elderly portion of this thing is ownership. It just says elderly housing. I don't have a written copy of it, so I can't make a comment. I am just going by the verbal. Mr. Sullivan stated an additional condition could be *'The applicant shall provide elderly housing ownership units to affordable units.'* I don't know if that is enough to determine that all elderly housing are ownership or only the 25 percent would be affordable units. Councilor Duschatko stated that is the problem. I would just like some clarification so we are consistent. Ms. Hebert stated you could insert the word 'ownership' where you have *'and a 96-unit ownership elderly housing development...'* Mr. Newberry stated I will accept that modification to the motion. As his second to the motion, Mr. McMahon accepted the modification as well.

Acting Chairman Murphy stated I was just going to ask just as a matter of housekeeping, either Ms. Hebert or Mr. Connors could you just walk us through modifications to those. We went through a considerable number of conditions and I just don't want to miss something.

Mr. Connors stated there was a mention to amend Condition #28 to read as follows: *'Prior to the issuance of a Certificate of Occupancy for the first residential buildings, the off-site improvements to South River Road shall be completed.'* Mr. Newberry stated I approve that

amendment to the motion. As his second to the motion, Mr. McMahon accepted the modification as well.

Ms. Hebert stated the Board may want to discuss amending Condition #26 as follows: *‘Prior to the issuance of a Certificate of Occupancy, a condominium subdivision plan and associated documents to create individual units within apartment buildings shall be approved by the Planning Board and recorded at the Hillsborough County Registry of Deeds.’* You could alter that condition to say *‘Prior to the issuance of Building Permit, a condominium subdivision plan and associated documents to create individual units within apartment buildings shall be approved by the Planning Board and recorded at the Hillsborough County Registry of Deeds.’* so that you have assurances that this development is creating a condominium form of ownership prior to construction, so there is no misunderstanding that change in plans. Mr. Newberry stated I will accept that recommended modification to Condition #25. As his second to the motion, Mr. McMahon accepted the modification as well.

Acting Chairman Murphy asked is there any discussion on the motion on the table? Mr. Sullivan stated one question that I have, and I know it got brought up earlier, was around limiting rental units out of ownership property to a certain amount. I imagine that would be during the condominium proposal, not necessarily during the site plan proposal. Am I correct? Mr. Connors replied I think that is right, yes.

**Acting Chairman Murphy called the roll on the amended motion. On a unanimous roll call vote, the amended motion carried.**

Mr. Woglom stated I just wanted to say thank you very much. I appreciate all of your time and am happy that we got it all done in two hours.

**V. Approval of Minutes of Previous Meetings: None**

**VI. Communications to the Board:**

Ms. Hebert stated your next meeting is October 26, 2020.

Acting Chairman Murphy stated if I could just make a comment. It would be extremely helpful for future Planning Board meetings if everyone makes sure, I know it is hard on Zoom because you have a single screen, so maybe if we are printing out our staff reports so that we have them in front of us while we are looking at our Zoom screen so that people can chime in with appropriate questions so that you have the text of proposed motions and draft commentary in front of you. I think it would help with the flow of the meetings in the future, and I think it would reduce any confusion in facilitating commentary, and I would appreciate it. Thank you. Ms. Hebert stated we are happy to print paper copies for you. I know we were doing everything electronic, but if you find you need a paper packet, email us and we can print the paper packets and have that resource available for you. I know it is a lot of paper and a lot of printing

depending on how long the agenda is. Mr. Newberry stated you can reduce the Zoom image so that it is just a small thumbnail in the corner and that facilitates trying to look at a supporting document, but as I have demonstrated this evening, it is still very easy to lose your place. Acting Chairman Murphy stated I am really not calling out anyone specifically, I think we have all been guilty of it from time to time, it is not too difficult to toggle between screens, but there was a bit of lag in this evening's meeting that I think was avoidable. Councilor Duschatko stated I apologize, I said I did not get a copy of some of these motions, it was hidden in an email. I thought it was the same staff report and I went back and found it. If we could just be notified that something has changed, I would appreciate it. Mr. Foote stated nice job facilitating the meeting. I appreciate it.

**VII. Reports of Committees: None**

**VIII. Adjournment:**

**MOTION by Mr. Sullivan to adjourn at 9:05 p.m. Ms. Malcolm duly seconded the motion. On a unanimous roll call vote, the motion carried.**

Respectfully submitted by  
Valerie J. Emmons