Town of Hollis

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HOLLIS PLANNING BOARD MINUTES

November 21, 2023 – 7:00 PM Meeting - Town Hall Meeting Room

MEMBERS OF THE PLANNING BOARD: Bill Moseley, Chair; Doug Cleveland, Vice Chair; Julie Mook; Benjamin Ming; Virginia Mills; Jeffrey Peters; David Petry, Ex-Officio for the Selectmen; Alternate Members: Chet Rogers; Richard Hardy; Mike Leavitt.

STAFF: Kevin Anderson, Town Planner & Environmental Coordinator; Mark Fougere, Planning Consultant.

ABSENT: D. Cleveland, D. Petry, J. Peters.

1. CALL TO ORDER – 7:00 PM. B. Moseley led the group in the Pledge of Allegiance.

B. Moseley wished everyone a happy Thanksgiving holiday this week.

B. Moseley stated that at this meeting, R. Hardy will be voting in place of D. Cleveland, and M. Leavitt will be voting in place of J. Peters. M. Leavitt will be recused on case PB2023-015, and on that case C. Rogers will be voting in place of J. Peters. V. Mills will be recused on case PB2023-012, and on that case C. Rogers will be voting in her place.

2. APPROVAL OF PLANNING BOARD MINUTES:

October 28, 2023 Site Walk, Dow Road: **Motion to approve** – motioned by R. Hardy, seconded by M. Leavitt; B. Ming and C. Rogers abstained. Motion passed.

October 17, 2023: **Motion to approve** – motioned by J. Mook, seconded by B. Ming; B. Moseley, V. Mills, and C. Rogers abstained. Motion passed.

3. DISCUSSION AND STAFF BRIEFING:

a. Agenda Additions and Deletions: K. Anderson stated that the Valicenti lot line adjustment plans, PB2023:009, have been received, and are ready for signature.

b. Committee Reports: none.
c. Staff Reports: none.
d. Regional Impact: none.

4. SIGNATURE OF PLANS:

PB2023:009 – Valicenti lot line adjustment. K. Anderson stated that he has verified that the

conditions have been met.

Motion to approve signature – motioned by R. Hardy, seconded by V. Mills; motion passed unanimously.

5. CASES:

a. **File PB2023:007 – Final Review:** Proposed consolidation of 5 lots totaling 18.43 acres to be re-subdivided into a 5-lot residential subdivision. The proposed minor subdivision will be accessed off a new 682 linear foot road. Located at the corner of Silver Lake Road and Ames Road, Owners; James R. Seely, James V. Prieto & Silver Lake Flea Market LLC., Applicant: Purple Elephant Development LLC., Map 46 Lots 6, 7, 8, 9 & 10, Zoned, Agricultural and Business & Residential and Agricultural. **Continued from October 17, 2023, public comment closed.**

K. Anderson stated that there were several items that needed to be addressed, and that is why this case was continued from the last meeting. The applicant has submitted a revised application package with a revised plan set dated November 6, 2023. A number of changes were made to address Staff concerns. The largest change is an extension of the paved road section in order provide frontage to Lot 9-2; an easement had been considered to address this matter, but it was believed the proposed additional paving provided a clearer solution. The revised drainage plan is acceptable and meets Town regulations.

Four letters from Town residents were submitted, and have been distributed to the Board. Comments from NH Fish and Game have also been received, and distributed to the Board.

The Planning Board is in receipt of a memo from the Hollis Conservation Commission relative to the proposed project. The Planning Staff believe that the present construction details noted within the plan set, along with the installation of the 100-foot wetland setback, as well as the recommended stipulations of approval, address issues raised by the Commission.

K. Anderson further stated that one of the outstanding items was trash; there were significant amounts of trash already picked up on site. An additional site walk was conducted with Town Planner Kevin Anderson, two representatives from Keach Nordstrom Associates, Peter Madsen, and wetland scientist Chris Danforth. Although the large areas of trash that existed on the site have been addressed, small areas of debris remain. In order to guarantee that this matter is fully addressed, the Applicant has agreed to post a $10,000 bond that would be in place prior to plan recording, to ensure that all remaining debris/trash that may exist along the embankment is removed to the satisfaction of the Planning Staff. In addition, based on discussions with the Building Inspector, the following note has been added to the plan: "In accordance to IRC section R105.9, subsequent to the demolition of the existing structures and prior to issuing a building permit, a final inspection shall be conducted of the site by the Building Inspector and Site Inspector to verify conditions of the site including proper clean-up and disposal of all debris and trash."

Applicant: Pete Madsen, Project Engineer at Keach-Nordstrom Associates, Bedford, NH, for Purple Elephant Development LLC. Agreed with K. Anderson's summary of where the project stands. He stated that he wanted to discuss the bond of $10,000, and how they arrived at that figure. They met with Town Staff and the Applicant about a week ago, and suggested bonding the work regarding any more trash in order to move forward. Based on previous trash removal from the site, they estimate that there are potentially three more truck loads of debris that could be found and removed – involving about 100 man-hours of labor at $25/hr. That equals approximately $5000 for one more session of trash removal, which the Applicant is willing to double to make sure that everything will have been cleaned up and taken care of to satisfaction. Additionally, they added the note allowing Town Staff and the Building Inspector to have access to the property after demolition to ensure that trash and debris have

been cleaned up. They believe that those two items work to address the issue of the trash, which was the last outstanding issue.

B. Moseley stated that the houses that will be going into this subdivision, if approved, will be high-end houses, so it would be in the builder's best interest to make sure that there is no trash on the premises. P. Madsen fully concurred.

B. Moseley further stated that, from a big-picture perspective, considering the current use of the property and the fact that it consists of about 18 acres of gravel and compacted sand leading to a lot of erosion, and considering that everything drains to the Brook, the proposed use of the project will probably be better than the current use of that land to prevent pollution in the Brook. K. Anderson concurred, adding that currently the site does not have a 100 foot wetland setback, because it predates the ordinance. The development of the subdivision will create the 100 foot buffer, which then can be enforced. B. Moseley stated that this project will actually be protecting Witches Spring much better than it currently is, in theory, and asked the Applicant if he agreed with that. P. Madsen stated that yes, he agrees.

C. Rogers asked if the bond would have a drop-dead date. M. Fougere replied that there is no clock on it; it will end after review by Staff.

R. Hardy commented regarding protection of the Brook, and also in regard to the Conservation Commission, that we are requiring that the entire wetland be a total no-cut, do not disturb zone. That is something that we have not asked for in the past, on any plans of which he is aware – so this will be more strict than the ordinance is, presently.

B. Moseley mentioned that Witches Spring is a very delicate area.

P. Madsen stated that that information is marked and noted on the plan, in multiple locations.

K. Anderson elaborated that typically selective cutting is allowed within the 100 foot wetland buffer; creating a no disturbance buffer means that there is no cutting. It is not allowed to be touched.

B. Moseley stated that concerns have come up regarding demolition of the existing structures on site, and asked if Staff have been in touch with the Building Inspector regarding those issues. K. Anderson responded that there are permits that will need to be pulled in order for the structures to be removed, and procedures for that through the Building Department.

J. Mook asked to reaffirm that although there may be buried items in that buffer zone, it has been understood by our experts and by the Board that digging it all up would do more harm than good. K. Anderson agreed with that statement. We do not know what is buried there, or if anything is buried there. Poking around and looking would cause much more disturbance to the buffer. Surface trash is what we have focused on.

K. Anderson stated that Staff did have some recommended conditions of approval:

1. Prior to plan recording, all required easements including cistern, road, and drainage shall be submitted for review and approval. Said easements shall be recorded with the plan.
2. All bounds shall be installed prior to CO or bonded.
3. Prior to the plan being recorded, a $10,000 security shall be in place to ensure all remaining debris/trash is removed from the embankment area to the satisfaction of the Planning Staff and the Building Inspector.
4. Prior to the issuance of a building permit, an adequate road bond/security shall be submitted.
5. Prior to any site work activity, a preconstruction meeting shall take place with Town Planning Staff and Town Inspector.

6. As a result of a letter from an abutter, they request that all utilities are extended to end of the road, to the right of way line. If there is any further expansion, it minimizes disturbance to the new road.

P. Madsen agreed with the conditions.

Motion to approve File PB2023:007, with the recommended conditions – motioned by M. Leavitt, seconded by R. Hardy; motion passed unanimously.

b. **File PB2023-014 – Subdivision Plan Amendment:** Applicant is proposing an individual driveway to his home where a shared driveway (between lots 13/68-10 & 11) was approved by the Planning Board in 2006 (case# 2671). Owners & Applicants: Michael & Melissa Binnette, Map 13 Lots 68-10, Zoned: Residential & Agricultural (RA). **Continued from October 17, 2023, public comment closed.**

B. Moseley stated that the Board conducted a site walk of the property on October 28, the minutes from which have been approved.

K. Anderson stated that during the site walk, features along Dow Road in the vicinity of the proposed driveway were noted, including prominent trees that are to be preserved. There was also some discussion regarding the potential addition of a no cut buffer along Dow Road.

Applicant: Michael Binnette. Stated that he is the owner of the property; his current residence is in Pelham, NH. He is just hoping to move that driveway.

B. Moseley stated that he would like to expand on some points discussed during the site walk, including that the Applicant is very conscious of the existing buffer between his lot and Dow Road, that he is very conscious about maintaining the mature trees and minimizing damage to stone walls and such. M. Binnette concurred.

R. Hardy commented that for other lots on Dow Road that were part of the original subdivision it was requested that the areas around the trees be left as a no cut area, to maintain a rural aesthetic.

M. Fougere pointed out that it is important to define what that means: does it mean no tree removal, no brush removal? The Applicant had wanted to thin out some of the lower brush, but if it is a no cut / no disturbance area, that is one thing; if it's a limited cut area, we have to define what that is.

R. Hardy mentioned that what we have experienced in the past is property owners simply clearing all brush. We did not have it defined specifically on our approval of the original subdivision. Personally, he thinks it has more to do with the trees than with lower brush.

B. Moseley asked if Staff had a recommendation to clarify the definition. K. Anderson replied that he and M. Fougere have talked about the possibility of using a caliber of tree or brush; he would defer to R. Hardy's knowledge and experience. R. Hardy stated that some of the brush the Applicant mentioned wanting to remove was Russian olive, which is an invasive species anyway, and probably of just a two- or three-inch caliber. That would be a good example.

It was generally agreed that brush of three inches or less in caliber could be removed. B. Moseley clarified that basically they would just be clearing out scrub.

V. Mills asked about the flow pattern on the site. K. Anderson stated that he looked further into it; the drainage patterns in the area are somewhat unique. All of the water from this site slowly makes its way around the house. He did not see any evidence of water flowing from the subject property onto the abutting property. The direction of the flow is around the houses. The area in general is very flat.

J. Mook pointed out that it's important to identify why this is potentially being allowed, because of the circumstances of the lot, and not set it as a precedent for being able to move driveways in lots that have already been approved. The characteristics of this instance make it unique.

K. Anderson added that reasons for this change include the septic location, which is the only location for the septic; the house by default can only go in one location; there is a significant grade change from the newly constructed house into the adjoining area. With all of these constraints, and trying to move water around both houses, it is a pretty unique circumstance.

K. Anderson stated that Staff recommendations for approval include provision of an updated plan denoting the new location of the driveway and its entrance onto Dow Road, specifying any trees that need to be removed, and any prominent trees that are to remain. They should also denote the area of a no cut buffer along Dow Road of anything larger than three-inch caliber trees.

M. Binnette understood and agreed with the conditions.

Motion to approve File PB2023:014, with the recommended conditions – motioned by J. Mook, seconded by V. Mills; motion passed unanimously.

c. **File PB2023-012 – Design Review:** New residential subdivision for 35 new residential homes on a new road connecting Deacon Lane and Proctor Hill (Route 130). Owners: Raisanen Homes Elite, LLC., Applicant: Fieldstone Land Consultants, PLLC., Map 17 Lots 5, 8 & 9, Zoned: Rural Lands (RL). **Application review for density yield, No public comment. (Public comment will be scheduled at a future meeting.)**

B. Moseley stated that his plan for the case at this meeting tonight is to talk about density; the Board will discuss studies. Based on discussion tonight the Applicant will come back with a presentation showing a HOSPD versus a conventional proposal. We will conduct a public hearing, and discuss any further studies that should be considered. The Board will then make a decision as to which way to proceed, with a HOSPD or conventional design, as well as making sure that the studies are performed. We will then continue with the design review process, to include a second public hearing as this is such a large project.

K. Anderson reiterated that the discussion at this point is to focus on density for the proposed project. The current proposal is for maximum density – there are a lot a variables which could adjust that. The applicant has submitted an application package that is complete for determining density. The submission includes: 35 house lots, road plan and profiles, site-specific soils for the entire project, and driveway profiles requested by Staff.

Applicant: Chad Brannon, Civil Engineer with Fieldstone Land Consultants, for Raisanen Homes Elite, LLC. Stated that they are proposing to develop these properties into a residential subdivision. The three subject properties total 133.67 acres of land. The property has 827 linear feet of frontage along Proctor Hill Road (Route 130) to the south, and 100 linear feet of frontage along Deacon Lane to the north. The properties are located in the Rural Land zone, which has minimum conventional lot size requirements of two acres with 200 feet of frontage; in that zone, the minimum back lot size requirements are four acres with 20 feet of frontage. Currently the subject property is primarily wooded, with topography generally sloping from west to east. There are some jurisdictional wetlands located on the site, and the topography does change in some of those areas, draining to those jurisdictional areas. They have field-delineated and mapped all the jurisdictional wetlands on this property, have completed a site-specific soil survey, and have prepared an existing conditions survey of the property. The properties are bordered primarily by Beaver Brook to the west, residential properties along Deacon Lane to the north and east; it is also bordered by residential properties along Route 130, with the exception of Diamond Casting & Machine Company, which borders the property along the

southeast section of Route 130. On August 20 of this year they submitted a formal Design Review package to the Town for consideration; with that package they submitted a conventional yield plan and also a HOSPD plan. That package went through a thorough review by Staff. Over the course of the last few months they have made some revisions. The initial package consisted of 36 lots; through review with Staff they have modified the plans and provided additional information. The revision in density was primarily due to driveway access to the buildable areas on each lot, and the associated wetland impacts. Their understanding is that the current plan does meet all of the local Design Review and local zoning regulations pertaining to lot layout and design for this conventional yield plan. This said, he would like to walk through how they came up with the plan and arrived at this density.

C. Brannon further stated that the local regulations require that all proposals that contemplate major subdivisions have to be presented to the Planning Board through the HOSPD regulations. The HOSPD regulations in general start by outlining the purpose and goals of maintaining open space, trying to consolidate development, trying to minimize impervious area. As their proposal is for a major subdivision, they have to start with the HOSPD regulations and work through them to move forward. Section 5(a) of the HOSPD regulations is where density is discussed. Essentially, that section states that density shall be based on a conventional yield plan. More specifically, the regulations state that the number of dwelling units permitted in a HOSPD shall be no greater than the number of units that would be possible if the parent parcel were wholly subdivided in a conventional manner. It states that that shall be without any open space set aside. The regulations state that the possible number of conceptual conventional lots will be determined with the use of site-specific soil mapping. They have completed a site-specific soil survey. Ultimately, a site-specific soil survey determines acceptable land, on a property. For the purpose of determining the number of HOSPD lots, each conceptual conventional lot must meet the requirements of a buildable lot. The definition of a buildable lot, in Town, is a lot that contains a minimum of 1.5 acres of contiguous acceptable land that is not divided by utilities, easements, rights of way, or waterways. All the lots on their current plan exceed that requirement. All lots on their plan exceed two acres of contiguous acceptable land, which speaks to how reasonable this proposed layout is. The definition of a buildable lot touches on a couple of other items – buildable area, for example. Every buildable lot in Town has to have a buildable area. A buildable area is an area that is either a 100’ x 200’ rectangle, or a 160’ radius. Each lot has to have this area on it, exclusive of steep slopes, and that area has to be outside of any of the building setbacks. Additionally, each lot has to have a driveway that originates on its frontage and provides access to the buildable area. All of those elements are detailed on the plans that they have submitted for consideration with this application.

C. Brannon stated that when they take a look at a conceptual layout, they start with the buildable areas in a sketch-plan form. You have the steep slopes defined, you have the existing topography, you have the wetlands, and all the setbacks, and you start positioning potential lots. Once you’ve done that, you have to design a roadway that meets a lot of other criteria in the Town regulations. All of the roadways in this plan do meet all of those criteria. Another item that they have to meet is the wetland conservation overlay district, which outlines that no project can propose a major wetland impact – so they have designed all of the wetland crossings for a conventional plan to prove that they can support this plan for a density that is typically likely to be a HOSPD density. They have gone through all of the regulations, they have vetted this plan out, they have settled at 35 lots with, to service the lots, about 7430 linear feet of proposed roadway.

R. Hardy asked what the blue and green colors indicate on the plan. C. Brannon replied that the blue hatch indicates steep slope areas; the green hatch refers to jurisdictional wetlands – the wetlands themselves, not the buffers.

B. Moseley asked Staff if what we’re looking for at this meeting, in terms of this case, is a consensus on density. K. Anderson said yes, and reiterated that this is a process – this is only the first step in moving forward with design review. B. Moseley pointed out that things can change as we get further into the design review process.

M. Fougere added that it's important to put on the record, too, that this is the very beginning of the process. There have not yet been any studies submitted that the Board has been able to look at, and that could influence density. The Conservation Commission needs to give input, and that could also impact density. Whether a conventional layout or a HOSPD is chosen, this application will require a special exception from the ZBA. Whatever is decided tonight could change – the number of units, the layout. There are a lot of things we don't know yet; the Board also hasn't yet done a site walk.

J. Mook asked what the special exception from the ZBA would be for. M. Fougere responded that if the impact on the wetlands is greater than 3000 square feet, a special exception is required. C. Brannon stated that the current proposed conventional layout is 14,760 square feet. M. Fougere stated that the original plan was well over 20,000 – for which the Applicant would have had to get a variance. That wasn't something that they even wanted in front of the Board, because it wasn't allowed and couldn't be considered. The Town doesn't allow wetland impact of over half an acre.

J. Mook asked what the Applicant did to cut the impact down from 20,000 square feet to 14,760, and whether there was something that could be done to lower it further – which might affect density. C. Brannon replied that if they went in the direction of a HOSPD, they could eliminate a number of those wetland impacts. They would be extending into less of the property, and would be able to reduce the linear footage of road. The roads and the driveways are where those wetland impacts are.

C. Brannon stated that they were at 24,000 square feet initially – the regulations require them to design single driveways to the building areas. However, the Town allows for common driveways, so the difference in interpretation is what changed the square footage of impact. They also eliminated one of the lots in order to get below 20,000 square feet.

K. Anderson clarified that our ordinance states that a driveway has to go from the right of way to the building box, but there are options for shared driveways. There are easements that can be done. There are a lot of ways to avoid the wetlands, or to minimize the impact. There are a lot of variables involved, and things are going to change – but we have to start somewhere.

C. Brannon stated that the regulations indicate that the plan has to be a HOSPD unless the Board deems a HOSPD plan to be unsuitable. Per B. Moseley, the Applicant will provide detailed plans for each option so the Board can shake them out, get input from the public, and move forward.

J. Mook asked to confirm that the current plans do not require waivers. C. Brannon responded that, per the discussions since August, he wouldn't be here right now if they did.

B. Ming asked if 35 units represented the maximum number, given where we are in the process. C. Brannon answered that he does think that it represents the maximum number of units for this project, at this point. They have worked on this site for a long time.

B. Moseley asked Staff about the possible studies that should be considered for this project. M. Fougere listed environmental hazard analysis, although that would be more for a case in which we thought there could be some contamination on the property – given the nature of this site, he doesn't think that is a concern; a wildlife habitat inventory and assessment, for which the Applicant has already engaged a consultant; a traffic study – this will need a DOT driveway permit. K. Anderson added that residents' concerns, heard at the first public hearing on this project, about cut-through traffic from Deacon Lane to Proctor Hill, the intersections, and safety should be added to the traffic analysis.

B. Moseley added that input should also be taken from the Police and Fire Departments, and also the DOT.

M. Fougere continued that a stormwater management study will be required; a fiscal impact study would look at potential tax revenue, as well as impacts on the schools and Police and Fire Departments;

a visual impact study, also known as a rural character analysis; and historical significance documentation.

B. Moseley pointed out that a fiscal impact study also looks at infrastructure.

Per a question from B. Moseley, K. Anderson confirmed that he does not see a need for an environmental hazard analysis for this area. B. Ming pointed out, however, that this is such a large area. B. Moseley agreed, and stated that such an analysis could always be added in, for instance after the Board has had a site walk.

K. Anderson stated that an environmental hazard analysis is a thorough review of the history and uses of the property, to see if there is any potential for a hazard concern. If this were the former site of a factory, for example, or a commercial area, such a study would be warranted. This parcel has been predominantly undeveloped, in a rural setting.

B. Moseley stated that if, following the site walk, the Board deems that there would be a significant alteration of topography, they might ask the Applicant for a 3-dimentional presentation showing before and after effects.

R. Hardy asked about the scope of the wildlife inventory and assessment – he would like to be sure that the assessment includes wildlife corridors, and activity levels.

M. Fougere pointed out that it would be a good idea for the wildlife expert that the Applicant has hired to consult with the Conservation Commission sooner rather than later. C. Brannon confirmed that they have hired Peter Spear, certified wildlife biologist, to perform the study. He started on the study a little over a month ago, to be able to check on wildlife before winter.

B. Moseley suggested Saturday, December 2nd, for the site walk, beginning at 9am. The rain date will be December 9th. He pointed out that for a project this big, it would not be uncommon to have another site walk at a later date.

Per a question from B. Moseley, the Board in general was comfortable, consensus-wise, with the density presented at this point. C. Brannon confirmed that, the next time they come before the Board, they will have more detailed HOSPD and conventional plans.

Motion to continue File PB2023:012 to the next Planning Board meeting, December 19 – motioned by C. Rogers, seconded by B. Ming; motion passed unanimously.

d. **File PB2023-015 – Ground Mount Solar:** Proposed application for (1) 42'8" ground mounted solar array located at 125 Mooar Hill Road, Owner & Applicant: Peter (Mike) & Diane Leavitt, Map 42 Lot 41, Zoned: Residential & Agricultural (RA). **Application acceptance and public comment.**

K. Anderson stated that the Applicant is looking for a conditional use permit to install one ground mount solar array, which will have a total footprint of 616 square feet. It is currently proposed to be 8'4" in height, which does not require a waiver. The array depicted on the plan meets all the setback requirements, and will be located approximately 100 feet from Mooar Hill Road. K. Anderson has viewed the site, which would not be very visible from Mooar Hill Road. It's very well screened with existing vegetation, even at this time of year.

Applicant: Mike Leavitt, 125 Mooar Hill Road. Stated that this is something on which he has been working for about a year, now. He believes that it meets the requirements. It would be behind the house, a little off to one side. There is only one abutter who is at all close to it.

J. Mook asked if the terrain is currently ready for the array – that there will not be any trees removed. M. Leavitt stated that it would be on the edge of their septic system. He brought in fill and created a flat spot that is a little bit below the level of the septic system. He picked the location as it has an almost due-South exposure, and gets at least 4-6 hours of direct sunlight all day long. It is the only spot on the property that gets that amount of sun.

Per a question from B. Moseley, M. Leavitt confirmed that the buffer will not be disturbed at all. There are no changes to be made.

K. Anderson stated that this property is at the end of a cul de sac; few people will be driving by it.

Public Hearing.

There were no speakers on this application.

Public Hearing Closed.

R. Hardy commented that the proposed array would be approximately100 feet from the road; the only time he can recall that the Board has requested additional evergreen screening is when a proposed array is to be much closer to the road.

V. Mills stated that the proposed array would be extremely well screened, and meets all setback requirements. She does not see any problem with it.

Motion to approve File PB2023:015 – motioned by J. Mook, seconded by B. Ming; motion passed unanimously.

e. **File PB2023-016 – Lot Line Relocation:** Applicant is proposing to adjust the common lot lines between two parcels of land located at Witches Spring Road. Owner & Applicant: Marie Chamberlain, Map 46 Lots 52 & 52-1, Zoned: Residential & Agricultural (RA). **Application acceptance and public comment.**

K. Anderson stated that the purpose of the lot line adjustment is to solidify and make certain that the former portion of Mooar Hill Road along the eastern side of the property is a discontinued road. This parcel is noted at a little over 10 acres, and there is a 10 acre minimum for current use. If it was determined that this discontinued section of Mooar Hill Road did not qualify for current use, this whole parcel would not comply. The reason for the lot line adjustment is to ensure that it meets the criteria. It's a unique circumstance. K. Anderson has met with the Town assessor, and they are fairly certain that Mooar Hill Road will not count against the current use, but the best way to ensure that is to have a lot line adjustment and make sure that the property will be over 10 acres.

Motion to accept the application – motioned by J. Mook, seconded by M. Leavitt; motion passed unanimously.

Applicant: Chad Brannon, Civil Engineer with Fieldstone Land Consultants, for the Owner. Concurred with K. Anderson's summary of the case. It's very a straightforward situation. There is a 15 foot strip along the shared property line, the boundary line between Lots 46-52 and 46-52-1. That strip consists of 0.337 acres of land. They are proposing to take the land away from Lot 46-52, and add it to 46-52-1, to make sure that the property, under the strictest interpretation, can remain in current use. The resulting lots would be 22.167 acres (Lot 46-52), and 10.351 acres (Lot 46-52-1).

B. Moseley asked if the intent is to keep the subject lot in current use even after construction. C. Brannon answered no; they do not plan on building on it any time soon, so they want to keep it in

current use until such time as they build. In order for it to stay in current use after building, the lot would have to be around 12 acres in size.

K. Anderson clarified that the application was submitted with a waiver request for additional studies; Staff does not see a need for that. It is not necessary.

Public Hearing.

There were no speakers on this application.

Public Hearing Closed.

Motion to approve File PB2023:016 – motioned by V. Mills, seconded by B. Ming; motion passed unanimously.

f. **File PB2023-017 – Subdivision plan amendment:** Applicant is proposing to adjust the common lot lines between two parcels and amend driveway and landscaping requirements for subdivided land located on Merrill Lane. Owner & Applicant: Willows Bend Farm, LLC, Map 13 Lot 68-2 & 68-3 Zoned: Residential & Agricultural (RA). **Application acceptance and public comment.**

K. Anderson stated that this plan amendment was part of a 2006 subdivision that was before this Board. It was a very controversial subdivision. This proposal is only for two existing lots; it has nothing to do with the other non-developed lots. What is being proposed is to adjust the lot line between two of the existing, previously-approved lots, to bring them into 100% conformance with today's regulations. The reason this is a plan amendment rather than a lot line adjustment is that the driveway locations are also being adjusted, and the landscaping proposed in 2006 is going to change for various reasons.

Motion to accept the application – motioned by J. Mook, seconded by V. Mills; motion passed unanimously.

Applicant: Ken Clinton, with Meridian Land Services, for the Owner. Stated that the properties were previously approved; there are four vacant lots left on Merrill Lane. In 2019 his office, Meridian Land Services, discovered that there were unmapped, undocumented wetlands on the four lots. The wetlands were of such a configuration and size that the lots would not be developable in their current configuration by today's regulations, even though they had been fully approved as buildable lots in 2006. They realized that if they made some adjustments, they could bring the two lots into compliance. After looking at the wetland configuration, they did some test pits and topography, and analyzed what the best configuration would be. The result is that they are recommending conveying a portion (parcel A on the plan) from Lot 2, on the west side, to Lot 3, on the east side. This would allow them to put the building circle fully within setbacks and buffers. Once that is accomplished, they can fit in the rest of the infrastructure for both lots.

K. Clinton stated that septic designers, wetland scientists, and soil scientists from his office have been on this project since 2019. They have done the test pits and preliminarily designed the leach fields for four-bedroom homes, and sited the wells. They have also examined the stormwater regulations, and designed a basin that would handle the stormwater runoff from the area. They have designed the basin longer than usual in order to keep it as shallow as possible, so that it's not just a hole in the ground. It's more subtle, and less noticeable.

Regarding the driveways, K. Clinton stated that Lot 3 actually had a common driveway for three lots. Unfortunately, that proposed driveway would cut directly through the newly mapped wetlands. To get to the buildable area of Lot 3, you'd have to cross the wetlands, and have a wetlands permit.

Alternatively, there is a suitable place for a driveway for Lot 3 to the west – there is an existing break in the stone wall, and space between two existing trees.

Per a question from B. Moseley, K. Clinton stated that the break in the stone wall is historic, for farming purposes.

K. Clinton stated that the other driveway was designed and approved as a common driveway, and is partially built at this time. It serves Lot 1. They are asking the Board for consideration to shift that over as a separate driveway between the mailbox for Lot 1 and the beginning of the stone wall to the east. There is about a 40 foot wide break in that area. That driveway, and the driveway for Lot 3, have excessive sight distance.

Regarding the landscaping plan, K. Clinton stated that the original plan, for not only these two lots but for the complex of lots that were considered at that date, was based on the ordinance at the time, and consisted of elaborate "zones" with different landscaping needs and requirements. It was an elaborate plan, with a tremendous amount of plantings – so much so that it would block the existing aesthetic fields. The current requirements are different, and the Applicant has now come up with a less-dense landscaping plan that meets the requirements as well as the intent of the Rural Character Ordinance.

K. Clinton stated that, should the plan be approved, a follow-up visit might be warranted to release some easements that are no longer necessary – in particular, landscape easements, and drainage easements that cannot be used any more because of the newly recognized wetlands configuration.

V. Mills commented that she'd like to hear from R. Hardy regarding the proposed landscaping changes, and asked about the original driveway configuration. K. Clinton answered that the Lot 3 driveway was one of three common-located driveways on the opposite side of the wetlands, so it is necessary to move it. The other driveway had been approved as a common driveway with Lots 1 and 2, and they are requesting a separate driveway for Lot 2. M. Fougere clarified that the western driveway was going to be a double, and the Applicant wants to separate it. To the east was going to be a private way with three homes; that location is now in wetlands.

Erol Duymazlar, 8 Merrill Lane, Owner of Willows Bend Farms. Stated that the reason they're asking to change the common driveway, shared with owner Bob Scott, is that Bob approached him some time ago to propose the thought of separating the driveways. Their preference is to not share a driveway, if they can avoid it, due to the common maintenance issues. It makes sense for both of them, as abutters.

R. Hardy stated that when the plan originally came before the Board, one of the main concerns was that this has always been a hayed area, in agricultural use. That was one of the reasons that it was requested at the time that the homes be pushed back, and that there be screening in front of them. He thinks that the new proposal for the retention area is better, as it is much shallower – however, they are proposing to use less than half of the screening plants previously approved. He is not sure that that is appropriate. Additionally, for landscape plans, it is required to submit common scientific names, heights, etc., which he does not see on this current proposal. He asked if there are any shrubs proposed for the plan, as a shrub spec was submitted but he doesn't see any shrubs on the plan. K. Clinton responded that the landscaping plan was prepared by landscape designer Cynthia Bouvier, and that he can't speak directly to that question. Regarding the volume of plantings, they do recognize the difference between the previous approval and the current proposal – it is a different era of ordinance, and in reading the purpose and intent of the ordinance as it is now they feel that this is more in conformance. R. Hardy countered that if it's essentially a new subdivision, then, why wouldn't we have a site walk, and so on? K. Clinton answered that it's technically not a new subdivision; they're just making amendments. R. Hardy stated, though, that the public weighed in on what the Applicant now wants to change – and that the landscape plan needs more work for those reasons. He thinks that they could add a little more screening, and still accomplish what the Town wanted as well as what the Applicant proposes. K. Clinton stated that they are happy to do that.

E. Duymazlar commented that he, too, is concerned about the viewscape. He would be glad to work with R. Hardy and with Staff on more extensive landscape plans as a condition of approval, and would be glad to accommodate whatever the Board is more comfortable with.

Public Hearing.

Robert Scott, 19 Merrill Lane, abutter. Stated that he supports the proposal, and the work that E. Duymazlar and Meridian have done. It makes those lots work. For 35 years he was a custom home builder; in that time, he had no experience of anyone who wanted a shared driveway. He thinks that the proposed plan is reasonable, and does not affect the rural character of the area.

J. Mook asked, if this plan is approved, what will happen to the piece of the shared driveway that has already been constructed. R. Scott answered that it will be removed. J. Mook asked whose responsibility that would be; R. Scott stated that it would be his responsibility.

Public Hearing Closed.

B. Moseley asked for the Board's thoughts regarding landscaping alterations. Do we want to have the Applicant submit a revised landscaping plan, or have Staff and R. Hardy work with the Applicant off line? The Board in general was in concurrence with having R. Hardy work with the Applicant to resolve landscaping questions before final signature of plans, as a condition of approval.

Regarding the changes in the driveway configuration, B. Moseley stated that the new proposal is pretty natural, considering the topography of the land, the wetlands, and the general environmental impact.

J. Mook asked about removal of the segment of the driveway that will no longer be used, as it's not particularly attractive. M. Fougere answered that they will put that in the stipulations.

Motion to approve the driveways as depicted on the plan – motioned by V. Mills, seconded by M. Leavitt; motion passed unanimously.

Conditions on the approval of the application are that the Applicant work with R. Hardy on the landscaping plan, to R. Hardy's satisfaction, and removal of the unused segment of the driveway – which the abutter has stated he is willing to do.

J. Mook pointed out that the lot line goes right down the middle of that driveway, and asked if that presents any issue. K. Anderson replied that there are already easements in place on that matter.

The Board in general indicated concurrence with the lot line relocation. It makes sense. M. Fougere commented that it's a nice solution to a challenging discovery.

Motion to approve File PB2023:017 with the conditions as stated – motioned by B. Ming, seconded by R. Hardy; motion passed unanimously.

10-Minute RECESS.

6. OTHER BUSINESS:

Proposed Zoning Amendments.

B. Moseley stated that before us this evening are six proposed zoning amendments from Staff, and a proposed amendment from the Zoning Board of Adjustment. Since the proposals are not petition

amendments, we need to discuss any alterations, and vote whether to send them to public hearing or not. If the Board receives a petition amendment, their only course of action is to provide a vote on whether they support it; petition amendments must be sent to public hearing.

a. M. Fougere stated that the first amendment before us this evening has to do with HOSPD regulations. The intent is to clarify that when an applicant comes in with a HOSPD plan, it must meet all applicable zoning requirements and subdivision regulations. This is a housekeeping change, to clarify the language. It doesn't change the intent.

   Per a question from J. Mook regarding setback requirements in a HOSPD design vs. a conventional design, Staff showed that this proposed amendment would be getting rid of a potential loophole.

   Motion to move the proposed zoning change to Public Hearing – motioned by R. Hardy; seconded by V. Mills; motion passed unanimously.

b. Regarding the next proposed zoning amendment, K. Anderson stated that we have had several instances recently in which a property that is under a violation, which could be for a number of different reasons, comes in with an open violation but can secure a building permit to do something in addition while the violation remains open. We do not have anything our regulations to say that a property with an open violation must fix and close that violation before pulling a building permit. It's another loophole, which this proposed change would correct.

   Motion to move the proposed zoning change to Public Hearing – motioned by R. Hardy; seconded by J. Mook; motion passed unanimously.

c. M. Fougere stated that the third proposed zoning amendment is an attempt to clarify some language in our wetlands ordinance relative to buffer disturbance. There are two sections of the ordinance that deal with driveway disturbances and buffer disturbances. The first one states that if it's greater than 3000 square feet it needs Planning Board approval; the second has to do with roads, similar to tonight's discussion. They are also adding a sentence that states "The location of a proposed roadway shall, to the maximum extent possible, be located outside of the buffer zones and wetlands". Staff believes that that was the intent when the ordinance was adopted.

   K. Anderson added that as the ordinance is currently, an applicant can propose a road, because it's an allowed use within a wetland buffer, and as long as they are below the 20,000 square foot threshold, the road can be located entirely within the buffer. As long as you're not impacting the wetlands, the Town has no say over it. This was not the intent when the ordinance was written. The intent was that if you're impacting buffers or wetlands, you have an ability to put the road there if there are certain reasons that it has to be in that location – but by and large the road should be outside of the buffer. Again, this is cleaning up the language where Staff is finding loopholes.

   Per a question from J. Mook, it was clarified that this is amending the language under permitted uses. We allow driveways in buffers of less than 3000 square feet.

   Motion to move the proposed zoning change to Public Hearing – motioned by V. Mills; seconded by R. Hardy; motion passed unanimously.

d. K. Anderson stated that this amendment came directly from our Building Inspector. There are a lot conflicts when it comes to fire codes, building codes, and our local ordinances. The Building Inspector upholds a lot of the fire and building codes, and there is clear language that states that anything over 400 square feet requires a building permit. Our ordinance does not say that. This change would bring all the ordinances in line.

   R. Hardy stated that, from his experience with his business, any tent needs a permit – does this mean

that if it's under 400 square feet, you don't have to get a permit? K. Anderson replied that the Building Inspector has a lot experience with temporary structures, permanent structures, and tents in general; there are some major fire codes involved. He personally does not have experience in that area, but understands R. Hardy's point.

Per a question from M. Leavitt, K. Anderson stated that the 400 square foot figure comes from the building codes. The building codes have to be upheld, but our ordinance does not at this point list that figure. This change would align the ordinance with the building codes, and take guesswork out of the equation. 400 square feet or more requires a permit.

Motion to move the proposed zoning change to Public Hearing – motioned by M. Leavitt; seconded by R. Hardy; motion passed unanimously.

e. M. Fougere stated that this amendment comes from the State, via FEMA. All the floodplains in the state are being remapped, and all the existing floodplain zoning requirements in the state need to be amended to reflect the new FEMA requirements. In order to stay compliant, we have to make these amendments – as does every town or city in the state that has a floodplain. The floodplain ordinance is six or seven pages long.

   B. Moseley suggested that this is basically an unfunded mandate from the federal government.

   K. Anderson and M. Fougere added that the State Office of Planning and Development, in working with FEMA, reviewed our Town ordinance, and made these suggestions.

   Motion to move the proposed zoning change to Public Hearing – motioned by R. Hardy; seconded by V. Mills; motion passed unanimously.

f. M. Fougere stated that this is a duplicate, and should be deleted.

   B. Moseley stated that when the application for the convenience store on Runnells Bridge Road went to the ZBA, there were questions regarding the zoning language about how the applicants could have demolished the existing building and worked around the ordinance. Would this proposal help to deal with situations like that? M. Fougere stated that we put that issue before the voters last year, and it was rejected.

g. M. Fougere stated that we have a memo from the ZBA outlining that, right now, if an applicant wants to construct an Accessory Dwelling Unit (ADU), it is a special exception use. The ZBA is recommending that it be a allowed by right.

   B. Moseley pointed out that the RSA authorizes that as an option for a town; the town selects how extensively they want to oversee ADUs. K. Anderson stated that the RSA specifically states that ADUs may be allowed by right, or by special exception. Hollis has chosen to go by special exception.

   K. Anderson outlined the process for an ADU as it is now; an applicant will come in to the Building Department to propose an ADU (also known as an in-laws' apartment). The maximum size for an ADU is 800 square feet. The square footage and footprints are reviewed by the Building Department. An ADU must share an interior heated wall with the main unit, which can be subjective. The shared heated wall is also reviewed by the Building Department, and ultimately discussed in front of the ZBA. As long as an ADU meets the criteria for the Building Department, the application is moved to the ZBA for their review and comment. It is not very often that an ADU is not approved, but when it is rejected it's typically over the interior heated wall. ADUs are allowed by right in many communities. Some communities actually have larger square footage allowances than does Hollis.

   This potential zoning change was proposed by the ZBA. Some comments that K. Anderson had in

regard to the proposal are that we're asking the Building Department to make their decision on whether the application is complete or not, which they are more than capable of doing – but now we'd also be asking the Building Department to make the decision about the interior heated wall, which is a subjective discussion and could change depending on what Building Inspector reviews it. Our Building Inspector now might interpret it one way; another Building Inspector could interpret it very loosely or very strictly. If the ZBA continues to consider ADU applications, it means that we have a whole Board reviewing the situation and making the decision, rather than putting it on one individual – and potentially not the same individual for every case.

J. Mook asked for an example of a questionable common heated wall. K. Anderson mentioned that cases in which a stairway leading up between the ADU and the main house is supposed to count as the common heated wall have been a notorious gray area for the ZBA. It's not really a common space; it's a stairwell. Our ordinance specifically references a shared heated wall. Depending upon where a door location is, and how the stairway is configured, its size, the number of floors it accesses, it can be a very pointed discussion that goes back and forth. J. Mook asked if a floor is a heated wall. K. Anderson answered that that would be a whole other aspect.

K. Anderson added that the Building Department could always say that elements of an application are too questionable, and send it to the ZBA – at which point the ZBA would pick it up and provide an interpretation.

R. Hardy asked how many ADU applications the ZBA reviews a year. K. Anderson responded that ADUs are becoming more and more common; there is usually at least one every other month. R. Hardy further asked if there is no way that the ZBA can clean up the definition of the common heated wall, so that it's a black and white deal. K. Anderson stated that yes, they could.

B. Ming asked about the theory behind the heated wall. K. Anderson replied that the theory is that if you wanted to get rid of the ADU, you could convert the area back into the main dwelling. Another requirement is that there be an interior door between the two units. There are a lot of little bits and pieces to the requirements; it's somewhat convoluted, and can be confusing. By saying 'by right', the Building Inspector is going to be making these determinations – unless they're not comfortable, in which case it will get kicked back to the ZBA.

K. Anderson pointed out that one is by right allowed to rent their ADU. It doesn't have to be a family dwelling – so for additional income a homeowner could add an ADU, but in that case you'd want to create as much separation as possible between the accessory unit and your main dwelling. You wouldn't want that heated wall.

M. Fougere added that a part of the ADU regulations which often gets debated is paragraph (e), in which it states that an ADU "shall have an area of no less than 300 square feet and no greater than 800 square feet", followed in the next sentence by "An attached accessory dwelling unit shall occupy no more than 30% of the total heated, above grade floor area of the total dwelling unit, including the accessory dwelling unit". This is where the wall issue comes into the discussion – that has to be incorporated into the 800 square feet. Many people want 800 square feet of living area, not including the stairwell.

R. Hardy asked how many ADUs get turned into rentals, and in what time frame. K. Anderson answered that there is no requirement to notify the Town; owners can do it by right. The original purpose of ADUs was to allow older family members to come in, but they can be rented, and the Town can't ask who will be living there or whether the unit will be rented. R. Hardy asked if they could be rented to a family with children, to which the answer was yes, absolutely.

K. Anderson stated that the idea of increasing density with more units, and the effect on the schools, is a whole other discussion, but there is gray area regarding the interpretation of our ordinance now,

and this proposed zoning amendment is asking one individual to take on that responsibility.

V. Mills asked if that individual has weighed in on how they feel about taking on that responsibility. K. Anderson replied that they're more than capable of it. Many members of Staff see every ADU application that comes in. V. Mills stated that it seems as if there is a great deal of review, already, before an application even gets to the ZBA – then it goes to the ZBA, which can take a month, two months, to get on the agenda, and then it goes back to the Building Department: so there are three steps. K. Anderson stated that an application doesn't get to the ZBA if Staff does not feel comfortable with it. However, the big discussion that always comes up is the shared heated wall.

K. Anderson asked about cases in which the Building Department may make a decision which the applicant feels is incorrect and wants to appeal to the ZBA. Would the ZBA only rule on the appeal, or on the entire application? M. Fougere stated that it's the whole thing – it's one and the same. If a building official makes a zoning determination, that decision is appealable to the ZBA, and anything that is part of that decision-making process, whatever was submitted in the application, would go to the ZBA. The ZBA is the ultimate authority on any definitions when it comes to the zoning ordinance. If an applicant isn't happy with a determination by the ZBA, the next step is court.

J. Mook stated that we have wonderful Staff right now, and she has no issue with letting them make these decisions. Ten years from now, if we're not as lucky to have such competent Staff, does that present an issue? B. Moseley pointed out that we can't know what the ZBA would be like at that time, either. That's why we have the ordinance, to give us a foundation. M. Fougere stated that the ordinance could always be changed again, if it became a problem.

K. Anderson stated that the RSA is clear; an ADU may be by right, or by special exception. Currently we do it by special exception. This proposal is saying that we should do it by right.

J. Mook asked whether there has been any research into other towns that deal with this issue in an exemplary way, the example of which could help us? She also asked if we're committed to the exact wording of the proposal. It was pointed out that the wording would be sent to counsel to vet. M. Fougere stated that we have time to send it to counsel, and can certainly research other communities. NH Housing has put out two or three different publications on ADUs – in fact, two or three years ago allowing ADUs was made mandatory; we didn't have to do anything at that point because we already allowed them, but they had been prohibited in some towns.

B. Moseley clarified that all towns in New Hampshire now have to provide for ADUs, but can choose whether to do that by special exception or by right. Do we know of other towns in NH that do it by right? K. Anderson stated that some examples were brought up at the recent ZBA meeting. He does know that the town of Amherst allows ADUs of 1000 square feet – which is a big difference. The RSA does not specify a square footage. M. Fougere stated that Henniker just upped it to 1200 for detached ADUs. B. Moseley stated that with detached ADUs, they must not need a common heated wall. M. Fougere stated that ADUs can be attached or detached. K. Anderson stated that detached ADUs are allowed in Hollis, if you have twice the acreage.

B. Moseley stated that the only thing that this proposal would change is whether an applicant could construct an ADU by right versus having to go to the ZBA. The Building Department could still bump an application to the ZBA if there was a question on the application.

Per a question from B. Moseley, K. Anderson stated that an ADU applicant has to have a septic system sized or designed for the extra bedroom units – that is an additional review criterion.

B. Moseley pointed out that if the Board agrees with this proposal it will still be sent to public hearing, for residents to weigh in.

Motion to move the proposed zoning change to Public Hearing – motioned by V. Mills; seconded by R. Hardy; motion passed unanimously.

h. K. Anderson stated that he'd like to suggest another potential amendment for consideration at the Board's next meeting. On ground mount solar applications, we currently have a height restriction of ten feet. Would the Board potentially like to increase that, to reduce the number of waiver requests that we receive on this issue?

B. Moseley asked whether the Energy Committee is going to formally propose the same thing. M. Leavitt, who is on the Energy Committee, stated that they already have; it's in the works, which is why K. Anderson is mentioning it now.

K. Anderson stated that we have seen waiver requests for taller ground mount solar arrays that by and large get approved because we have adequate screening to block the additional height.

Per a question from R. Hardy, M. Fougere clarified that if the allowed height were raised to 15 feet, an applicant would still come before the Board for review and approval – which would include the discussion of screening. If an applicant wanted to install a ground mount solar array that went above 15 feet, they would additionally need a waiver from the Board. The only difference is that instead of having to get a waiver for an array that is 10'2", if this proposal passed they wouldn't need a waiver unless the array was to be over 15 feet – or whatever revised height is chosen.

J. Mook stated that she could support making the allowed height a practical number, so that we don't have to issue a waiver, as we still have other criteria necessary for approval of an application at any height.

K. Anderson will prepare the language for this proposed zoning change, and the Board will discuss it at their next meeting, December 19.

M. Fougere stated that the statute on hearings is very specific; we have to have a first hearing on a proposed zoning change by a certain date. As the Board has not had a chance to fully discuss this potential zoning change in depth, it could become a problem from a timeline standpoint. We may have to have a public hearing on the proposal at the December meeting, but could then table it for further discussion.

B. Moseley stated that the Planning Board will not have an additional meeting December 5th, as contingently scheduled, as they concluded all agenda business at this meeting tonight.

ADJOURNMENT:

Motion to adjourn at 9:52pm – motioned by B. Ming, seconded by M. Leavitt; motion passed unanimously.

Respectfully submitted,
Aurelia Perry,
Recording Secretary.

NOTE: Any person with a disability who wishes to attend this public meeting and who needs to be provided with reasonable accommodation, please call the Town Hall (465-2209) at least 72 hours in advance so that arrangements can be made.