



# Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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## **MEMORANDUM**

**Date:** April 13, 2016

**To:** Robert Best, Chairman, & Members, Planning Board

**From:** Timothy J. Thompson, AICP, Community Development Director

**Subject:** **Meridian Land Services, Inc., North View Homes & Development, Inc., & Bernstein, Shur, Sawyer & Nelson, P.A. (applicants) and The Allen Swenson Real Estate Trust of 1999, The Barbara Swenson Real Estate Trust of 1999, Hampshire Ventures, Inc. & GFM Development, LLC (owners)** – Preliminary layout discussion (per Section 3.02 of the Subdivision Regulations) of a 66-lot subdivision on four lots (originally part of the Greenfield Farms subdivision) located on Wire Road and Whispering Pines Lane in the R-1 (Residential) and Aquifer Conservation Districts and the 100-year Flood Hazard Area. Tax Map 7C, Lots 28, 30, 40 & 40-1.

**Background:** Please see the staff memo dated January 28, 2016 for general background information on this project.

The application was submitted under Section 3.02 (Preliminary Layout) of the regulations. This is an optional preliminary step that applicants can utilize in the development of subdivisions. The “process” for a “Preliminary Layout” is summarized below:

- Plans and information should be submitted in accordance with the requirements of Section 4.05 of the regulations.
- The Board has the option to consider “conditional approval with modifications only to authorize the preparation of the final plat”, or to “disapprove such preliminary layout”. While these are the only two options listed in this section of the regulations, Staff believes that because this is an optional preliminary step in the subdivision process, the Board can also provide feedback more akin to a conceptual discussion or pre-submission hearing, and need not make a formal decision on the “preliminary layout.”
- Abutter notice is required along with a public hearing for a preliminary layout.
- “Conditional approval of a preliminary layout shall be separate and apart from formal consideration of a completed application under Section 3.03 and the time limits for acting under Section 3.03(b) shall not apply until a completed application is submitted under Section 3.03(a), all in accordance with RSA 676:3 and 4 (as amended).”
- “Conditional approval does not constitute, nor should it be construed as approval, either implied or granted, of the final plat, nor does it bind the Planning Board to approval of the final plat.”

*Staff recommends that given the missing information from Section 4.05 (see comments listed below), that the Board should refrain from formally deciding to “conditionally approve” or “deny” the preliminary*

layout, and rather should use the public hearing and discussion to provide direction to the applicant in terms of the design and any concerns the Board may have.

As you may recall from the discussion in February, the applicant is requesting that the services of a different peer review consultant be utilized for the review of this project (given the previous involvement of CLD's intellectual property and CLD employees in the design of the project in the past iterations). See attached letter from Meridian requesting a different peer review consultant. Staff has confirmed that Keach Nordstrom Associates (KNA) is willing to take on the peer review of the project, and is in a good position of understanding the project given KNA's history as the peer review consultant for the Town of Bedford (where previous phases of this project are located). Staff recommends that the Board vote to authorize KNA to be the peer review consultant for the Town on this project, commencing once a formal application is submitted for review by the applicant.

**Staff offers the following comments to the Preliminary Layout submission:**

1. The following items, as required by Section 4.05 of the Regulations, were not provided for the Preliminary Layout:
  - a. (4.05.d) Names and addresses of abutting property owners, subdivisions, and buildings within 200 feet of the boundaries of the parcel to be subdivided and intersecting roads and driveways within 300 feet of the subdivision frontage on existing roads;
  - b. (4.05.f) Existing and proposed street right-of-way lines, widths of streets, proposed names of new streets, existing and proposed lot lines and location and width of proposed sidewalks or pedestrian ways;
  - c. (4.05.g) Location of existing and proposed easements, deed restrictions, building setback lines, parks and other open space, water courses, large trees, foliage lines and significant natural and man-made features, water mains, sanitary sewers, storm water drainage lines, drainage structures and drainage ways;
  - d. (4.05.h) Location of stump dumps and/or material disposal areas; all such dumps and/or material disposal areas must be permitted by the State in accordance with RSA 149-M:10;
  - e. (4.05.i) Existing and proposed plans for telephone, electricity and gas utilities;
  - f. (4.05.j) required flood hazard area information;
  - g. (4.05.k) A general site location map at the scale of the official or municipal base map, locating exactly the subdivision boundary and proposed streets in relation to at least two existing intersecting streets or other features shown on the official map;
  - h. (4.05.m) A statement and contours in sufficient detail to indicate clearly the method of storm water drainage on and off the subdivision, methods of sanitary sewage disposal and water supply; soils data;
  - i. (4.05.n) Watershed areas and drainage computations;
  - j. (4.05.o) Typical roadway cross-sections;
  - k. (4.05.q) Copies of statements outlining the conditions under which any land is to be reserved for public use;

- l. Other items, not necessarily from Section 4.05:
  - i. Provide lot sizing and setback information on the plans as required by the regulations and ordinance;
  - ii. Indicate all required buffers specified by the Zoning Ordinance;
2. Wastewater related comments:
  - a. The Public Works Department has approved the sewer extension and siphon design behind Barbie Court to Whispering Pine Ln (which will facilitate connection to this project). The Department notes in the approval memorandum that connections to this sewer are not available until the previously installed section through Hamilton Court has been accepted and turned over to the Town of Merrimack by the developer;
  - b. The above referenced approval does not cover the need for a permit and sewer design to be approved by both the State and Town for the proposed project before you. There will be additional sewer design work and permitting that the Wastewater Division will be reviewing and commenting on as the project moves into a formal design;
3. The Assessing Department offers the following comment: Prior to the subdivision, it appears 4 existing lots are to be consolidated and currently there are 3 separate owners of record. Before consolidating land of 3 separate owners it would seem appropriate for ownership to be conveyed first to one entity before approval of consolidation;
4. The applicant is reminded that proposed fire hydrants and street names must be shown on an engineered plan for review and approval by the Fire Marshal.
5. The applicant should be prepared to address the following as the project transitions to a formal application (note that this is not intended to be an all-encompassing list, and Community Development reserves the right to add any applicable review comments as the project moves through the design process):
  - a. Address all forthcoming comments from the various Town Departments, Boards/Commissions, and peer review consultant as is typical for review of any subdivision application;
  - b. Obtain all applicable state permits;
  - c. Provide draft copies of any legal documents (easements and required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) for review, at the applicant's expense, by the Town's Legal Counsel;
  - d. Provide applicable notes relative to the requirements of Section 3.08 of the Zoning Ordinance relative to Cluster Subdivisions;
  - e. Provide appropriate notes describing proposed project phasing (and depict graphically on the plans as applicable);
  - f. As required by Section 3.08.13(f) of the Zoning Ordinance, all deeds transferring any interest in the real property included in the development shall specify that the common land/open space parcels in the development are acknowledged to be part of the residential use and do not qualify for "current use" real estate tax appraisal and assessment under NH RSA 79-A;

- g. As stipulated in Section 3.08.18 of the Zoning Ordinance, any proposed changes to the project's Articles of Association or the Condominium Declaration following the final approval of the project shall require the prior written approval of the Planning Board.
6. Staff recommends that the applicant continue to seek input from all local entities (Conservation Commission, Merrimack Village District, Town Departments) early in the process.

cc: File  
Correspondence  
Rebecca Hebert, Town of Bedford Planning Director

ec: Kenneth Clinton, Meridian Land Services  
Northview Homes & Development  
Bernstein, Shur, Sawyer & Nelson, P.A.  
The Allen Swenson Real Estate Trust of 1999, Owner  
The Barbara Swenson Real Estate Trust of 1999, Owner  
Hampshire Ventures, Inc, Owner  
Greenfield Management, LLC, Owner  
John Manuele, Fire Marshal  
Jim Taylor & Ken Conatay, Wastewater Division  
Kyle Fox, PE, Town Engineer/Interim Public Works Director  
Assessing Department  
Building Department Staff



**MERIDIAN**  
**LAND SERVICES, INC.**

CIVIL ENGINEERING | LAND SURVEYING | PERMITTING | SOIL & WETLAND MAPPING | SEPTIC DESIGN | ENVIRONMENTAL

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April 13, 2016

Mr. Timothy Thompson, AICP  
Community Development Director  
6 Baboosic Lake Road  
Merrimack, NH 03054

Re: Greenfield Farm Subdivision – Alternative Peer Review Request

Dear Tim,

Meridian Land Services, Inc., on behalf of Greenfield Management, LLC hereby requests the selection of an alternative third party consultant for peer review in accordance with RSA 676:4-b, I. Although we generally are quite satisfied with the typical peer reviews by CLD Consulting Engineers, Inc., they previously were engaged to provide services for this particular subdivision and applicant. As such, we feel it would be more appropriate for Keach-Nordstrom Associates, Inc. to perform the upcoming peer review. I understand Steve Keach is agreeable to provide these services and would require a formal request from your office for his official acceptance.

Please let me know if you have any questions or needs from us.

Thank you for your consideration in this matter.

Very truly yours,  
Meridian Land Services, Inc.

Kenneth C. Clinton, LLS/PLS  
President

Cc: Greenfield Management, LLC  
Greg Michael, Esq.



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## **MEMORANDUM**

**Date:** January 28, 2016

**To:** Robert Best, Chairman, & Members, Planning Board

**From:** Timothy J. Thompson, AICP, Community Development Director  
Robert Price, Assistant Planner

**Subject:** **Greenfield Management, LLC. for Greenfield Farms (applicant/owner)** – Conceptual discussion of a proposed single family cluster development located at Wire Road, Whispering Pines Lane and Pearson Road in the R (Residential), Aquifer Conservation Districts and the 100/500 year Flood Hazard Areas. Tax Map 7C, Lots 028, 030, 040 & 040-1.

**Background:** The subject parcels, Tax Map 7C, Lots 028, 030, 040 & 040-1, comprise approximately 129 acres of land and is located at Wire Road, Whispering Pines Lane and Pearson Road in the R (Residential) and Aquifer Conservation Districts and the 100/500 year Flood Hazard Areas. The area is undeveloped, but portions have been planned for the next phase of the Greenfield Farms subdivision (the currently developed portion of the project is located in Bedford). The site would have access to water from Merrimack Village District and municipal sewer would also be extended to service the development of the property.

As the Board is likely aware, this project has been in front of the Board on multiple occasions. In 2007, the Board granted conditional approval to a cluster subdivision of 24 lots (with 2 open space lots). The project never received final approval, however, as the provision of municipal sewer to serve the project was never in a format and design that met the approval of the Public Works Department (the applicant prepared but withdrew a plan in 2009, then appeared before the Board in 2014 with discussions regarding sewer extensions, see attached prior memos and minutes for further background).

After continued discussion between the applicant and the Public Works Department, it now appears that the sewer extension's design has been modified to be consistent with the Town's latest Sewer Master Plan (adopted in 2013), and that Public Works is comfortable with the plans/design to bring sewer to the site.

In addition to the revisions to the sewer extension design, the applicant has acquired additional abutting parcels which are now incorporated into the latest conceptual design. The applicant is seeking initial feedback from the Board on the concept, before beginning formal design and engineering work on the new subdivision concept.

Staff will also note that the applicant has changed design firms for the project. The initial 2007 plan was design by True Engineering, which has since gone out of business, and True Engineering's intellectual property was acquired by CLD Consulting Engineers. As you are no doubt aware, CLD is the Town's engineering peer review consultant for Planning Board applications. While Meridian Land Services has now taken up the design work for the project, the work is still based on the plans and information that were prepared initially by True and CLD. As such, when a formal application for this project is submitted, the Town, at the applicant's request and as authorized by new state law,

recommends that the services of a different peer review consultant be utilized for this project (RSA 676:4-b, which states:

*“The applicant may request the planning board choose a different third party consultant and the request may include the name of a preferred consultant. The planning board shall exercise reasonable discretion to determine whether the request is warranted. When such a request is granted by the planning board, the 65-day period for the board's action on an application stated in RSA 676:4, I(c)(1) shall be extended 45 days to provide the board adequate time to identify a different consultant.”*

Staff will work with the applicant and Meridian to secure the services of a peer review consultant for the project moving forward, which will be, as per the normal procedure in accordance with statute, at the applicant's expense. At the appropriate time, staff will bring forth a recommendation to the Board for the selection of a peer review consultant for your approval.

Staff offers the following comments to facilitate the conceptual discussion with the applicant:

1. The Board should discuss how the purposes of the Cluster Residential Development Ordinance are being met:
  - a. To promote the conservation of the natural environment, and the development of community uses in harmony with the natural features of the land;
  - b. To establish living areas within the Town that provide for a balance of community needs, such as a diversity of housing opportunities, adequate recreation and open space areas, easy accessibility to these and other community facilities, and pedestrian and vehicular safety;
  - c. To provide for an efficient use of land, streets, and utility systems; and
  - d. To stimulate new approaches to land and community development.
2. The Board should ask the applicant to discuss how the project has grown with the additional land they've acquired, how that has allowed them to alter the layout of the development and also if they are considering phasing the project in any manner.
3. The applicant shows 66 lots on the plan but the application indicates the number of lots is 'to be determined.' The Board should ask the applicant to clarify how this number may change.
4. The applicant should discuss how the sewer plans have been modified to satisfy the Public Works Department.
5. The applicant should be asked to discuss any potential waiver requests or zoning relief they may be considering.
6. As has been done previously, the applicant should be reminded that proposed fire hydrants and street names must be shown on an engineered plan for review and approval by the Fire Marshal.
7. Staff recommends that the applicant continue to seek input from all local entities (Conservation Commission, Town Departments) early in the process.

cc: File  
Correspondence

ec: Kenneth Clinton, Meridian Land Services  
Greenfield Management, LLC, Applicant/Owner  
John Manuele, Fire Marshall  
Jim Taylor, Acting Public Works Director  
Ken Conatay, Wastewater Division  
Kyle Fox, PE, Town Engineer/Deputy Public Works Director  
Fred Kelley, Building Official  
Carol Miner, Building Department

**At the applicant's request, the Board voted 7-0-0 to continue this item to March 1, 2016, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Desirea Falt.**

**3. Madi Choueiri for LaTerrasses Restaurant (applicant/owner) –** Compliance Hearing as required by conditions of Approval for a restaurant located at 480 D.W. Highway in the C-1 (Limited Commercial), Elderly and Town Center Overlay and Aquifer Conservation Districts. Tax Map 5D-3, Lot 046.

This agenda item was taken up after agenda item #5.

Desirea Falt recused herself from discussing and voting on this agenda item. Chairman Best designated Nelson Disco to sit for Desirea Falt.

Tim Thompson reminded the Board that one condition of approval was that the “applicant attend a compliance hearing with the Planning Board after legible architectural elevations are submitted to Community Development”. Those elevations have now been submitted.

Madi Choueiri, 480 D.W. Highway, said he has fulfilled the conditions of approval and that there were no changes in the elevations.

In answer to Nelson Disco, he stated that the front would be glass and the rest of the building would be the same white and light green color as now. He hopes to open next winter.

Nelson Disco said a condition of approval was to “indicate any proposed easements on the plan . . . including . . . parking and sidewalk easements”, but the cross-hatching is not visible where asphalt was to be replaced with grass, the sidewalk easement boundaries are not clear and the parking spaces are not delineated. The Public Works Department (PWD) must approve the easement plan. Tim Thompson explained that the lines are very faint and do not show on the Planning Board's copy. Staff will be sure they show on the final plan. No Planning Board action is necessary tonight; precedent condition #11 of approval has now been satisfied. PWD has already made its review. The Town attorney has only minor comments. Plans will be brought forth for signature when remaining conditions are satisfied.

**This public hearing satisfied precedent condition #11 of the project approval.**

**4. Greenfield Management, LLC. for Greenfield Farms (applicant/owner) –** Conceptual discussion of a proposed single-family cluster development located at Wire Road, Whispering Pines Lane and Pearson Road in the R (Residential), Aquifer Conservation Districts and the 100/500 year Flood Hazard Areas. Tax Map 7C, Lots 028, 030, 040 & 040-1.

Desirea Falt returned to the Board. Nelson Disco returned to Alternate status.

Tim Thompson summarized the background of the development: In 2007 the Board granted conditional approval to a 24-lot subdivision with two open space lots. The project never received final approval because the provision of municipal sewer to serve

the project was never in a format and design that met PWD approval. In 2009 the applicant withdrew the plan. In 2014 the applicant discussed sewer extensions with the Board. After continued discussion with PWD, the sewer extension's design has been modified to be consistent with the Town's latest Sewer Master Plan and PWD is comfortable with the plans/design to bring sewer to the site.

The initial 2007 True Engineering design was acquired by CLD Consulting Engineers, which is the Town's peer review consultant. At the applicant's request and as authorized by new State law, the Town recommends that the services of a different peer review consultant be utilized when a formal application is made.

Ken Clinton, President, Meridian Land Services, Inc., proposes to build a 66-lot cluster development serviced by both sewer and water. There are currently four separate parcels ranging from 5.5 acres to 97 acres. The project was stalled and withdrawn because of the sewer issue, which has now been solved. All the infrastructure will be in place and ready for State approval. With the addition of the fourth parcel, the right-of-way will become a through road to Wire Road. The road would have enough curves to prevent speeding. There is a power line easement in the middle of the property. Six separate, short cul-de-sacs or pods are proposed. Some improvements were moved away from the wetlands. A gravity sewer system was discussed with PWD and the Sewer Department; no pump system would be required. No road design or drainage waivers would be necessary. The project is much improved since 2006 and 2009. Remarkably there would be no wetland impact. The project would need an Alteration of Terrain Permit. Despite PWD's suggestion, he did not make extra road loops around the cul-de-sacs because he sees no reason for extra paving. The average lot would be ¼ acre or approximately 12,000 square feet. The subdivision would take up 35-40 acres out of the 130 acre total, leaving 90 acres of contiguous open space, more than the required 50%. A waiver for a flatter road grade may be sought.

In answer to Board questions, Ken Clinton stated that four tax map lots would be consolidated and re-subdivided. Brenda Lane is on the south. The lot on the Bedford town line would be open space. There would be a lot line adjustment for the Swenson homestead, which is mostly in Bedford. There would be open space on both sides of Baboosic Brook. No crossing is proposed. There would be connectivity to the public roads.

Nelson Disco wanted access to the open space from the homes, but Ken Clinton said it would not work because a homeowner's association would have the burden of maintaining the access. Tim Thompson explained that recreational space is not required in the open area by ordinance, but is suggested as an option. Alastair Millns wanted the applicant to consider the walking trail on the perimeter that was on the original application. Jeff Sebring noted that there is land above the Brook that would never be developed. He asked whether most of the homes would be separated from the power line/easement. Ken Clinton explained that, although he could build against it, he would build in 50' of separation. The old sand pit will remain because the Town is using it for bridge reconstruction.

Ken Clinton noted that the Cluster section of the ordinance encourages “diversity of housing opportunities”. He asked the Board’s view of mixing uses and building housing units for the elderly in one of the cul-de-sacs. He stated that the Elderly Overlay District is “incredibly small”. The suggestion has received some positive comments from Town officials, but no specific endorsements. It would require a variance from the Zoning Board of Adjustment (ZBA), although he does not know what the density would be. Nelson Disco recalled that the District was created to be within walking distance from business areas. That would not be possible for this development, which is also far from a fire station. He doubted whether juxtaposing multi- and single-family units would be marketable.

Ken Clinton said residents of a 55 and over development have no problem driving. Lynn Christensen noted that part of the District (Turkey Hill Road) is not walkable to businesses. She suggested that single-story ranch-type units with connected buildings would be more interesting than flat-front townhouses. Chairman Best agreed with both Nelson Disco and Lynn Christensen and is open to considering the suggestion. He cautioned against adding a convenience store just because it would be within walking distance and against using salt or fertilizer on the land. Alastair Millns said it would be easy to drive to the Bedford commercial district.

Tim Thompson said he had suggested having this discussion with the Board. He is neutral, but noted that the Master Plan encourages mixed use.

Ken Clinton said there would be sidewalks and trails, perhaps with exercise stations. He prefers passive recreation that is free and does not require maintenance. Chairman Best suggested installing benches. Nelson Disco suggested a ball field accessible to the Town and maintained by an entity other than a homeowners’ association. Tom Mahon suggested asking the Parks and Recreation Department what it wants.

There was no public comment.

It was the consensus of the Planning Board to utilize the services of a different peer review consultant.

## **6. Discussion/possible action regarding other items of concern**

Tim Thompson alerted the Board that Prime Alternative Treatment Center would appear before it on February 16, 2016. Because of issues with the landlord, it officially withdrew its previous application and conditional approval, and will instead pursue another parcel at 380 D.W. Highway/Skyline Mall.

## **7. Approval of Minutes – January 5, 2016 & January 19, 2016**

The minutes of January 5, 2016, were approved, with one change, by a vote of 6-0-1, on a motion made by Lynn Christensen and seconded by Alastair Millns. Jeff Sebring abstained.

The minutes of January 19, 2016, were approved, as submitted, by a vote of 6-0-1, on a motion made by Lynn Christensen and seconded by Alastair Millns. Vincent Russo abstained.