

**Final Plan Approval – 5-Lot Subdivision
35 Discovery Road
October 13, 2016**

47 The Planning Commission approved a Final Plan for a three-lot subdivision on the property in
48 September 1994. The subdivision created Lot 14 and Lot 15, which have frontage on Lamore
49 Road. Both lots were to be accessed by a driveway off of Lamore Road.

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51 In April 2002, the Town issued a zoning permit for the construction of a single-family home on
52 Lot 15. The permit allowed the owners of Lot 15 to access the home from a driveway off
53 Discovery Road.

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55 The applicant obtained Planning Commission approval in June 2009 for a three-lot residential
56 subdivision for property located at 35 Discovery Road. The approval led to the creation of Lot 16
57 and Lot 19.

58

59 The Planning Commission approved a Sketch and Master Plan Amendment to create two 3-acre
60 lots – Lot 49 and Lot 50 – on an existing five-lot subdivision in June 2010. The Planning
61 Commission approved the Final Plan for the subdivision in February 2011. In July 2011, the
62 Planning Commission approved a Final Plan amendment to convert a shared driveway into two
63 driveways at 186 Lost Nation Road.

64

65 In November 2011, the Planning Commission approved a Sketch and Master Plan application for
66 a Planned Unit Development-Residential (PUD-R) that included eight rental units and 76 acres
67 of open space. The approval included a boundary adjustment between properties at 11 and 15
68 Lamore Road.

69

70 The Planning Commission permitted another Final Plan Amendment in March 2012, allowing
71 the applicant to remove the access easement from Lots 49 and 50, also known as 186 and 190
72 Lost Nation Road. A new access to Lot 19 was to be proposed as part of a future Master Plan
73 Amendment application.

74

75 In June 2013, the Planning Commission approved a Minor Subdivision-Boundary Adjustment
76 between 176 Lost Nation Road and Lot 19 of 35 Discovery Road.

77

78 In August 2013 the Planning Commission approved a Final Plan Amendment to build a single-
79 family home at 35 Discovery Road. The Planning Commission also approved a waiver allowing
80 the home to use an existing private drive that was already being used by two homes.

81

82 In August 2016 the Planning Commission approved a Sketch Plan for the proposed five-lot
83 subdivision.

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85 The property has outstanding violations from PC approval 2013-23. Although most of the
86 violations have been resolved, staff recommends that if the Planning Commission approves the
87 Final Plan, it include a condition requiring all violations to be resolved within 180 days.

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90 **IV. Article II, Section 2.9 of the Subdivision Regulations: Final Subdivision**

91 **Approval**

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93 The applicant has applied for Final Subdivision approval pursuant to the *Town of Essex Outside*
94 *the Village of Essex Junction Official Subdivision Regulations* (Articles II, III, IV). Section 2.9 of
95 *the Town of Essex Outside the Village of Essex Junction Official Subdivision Regulations*
96 requires final subdivision approval for all major and minor subdivisions. The proposed
97 subdivision is a major subdivision. Per Section 2.9(A),

98
99 *The purpose of Final Subdivision Review shall be to compare the plat for consistency*
100 *with the approved Preliminary Plan or approved Sketch Plan, to ensure that all*
101 *engineering, survey and other data are complete, and to ensure that the proposed*
102 *subdivision is in compliance with all appropriate regulations and standards. Review by*
103 *the Planning Commission shall include a public hearing in accordance with the*
104 *provisions of Article V of these Regulations.*

105
106 **(A) Plans:**

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108 The applicant has submitted the following plan:

- 109
110 • Plan Sheet #M1, “Master Plan, Lands of Leclerc, 35 Discovery Road + 186 Lost Nation
111 Road, Essex Jct., VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated
112 11/30/10, last revised 6/28/16.
113 • Plan Sheet #1 “Subdivision Plan, Lands of Leclerc, 35 Discovery Road + 186 Lost
114 Nation Road, Essex Jct. VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated
115 7/27/16, revised 10/7/16.
116 • Plan Sheet #2 “Plan + Profile Lots 22 + 23 Lands of Leclerc, 35 Discovery Road + 186
117 Lost Nation Road, Essex Jct., VT,” prepared by O’Leary-Burke Civil Associates, PLC,
118 dated 9/9/16.
119 • Plan Sheet #3 “Plan + Profile Lot 24 Lands of Leclerc, 35 Discovery Road + 186 Lost
120 Nation Road, Essex Jct., VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated
121 9/9/16.
122 • Plan Sheet #4 “Details and Specifications, Lands of Leclerc, 35 Discovery Road + 186
123 Lost Nation Road, Essex Jct., VT,” prepared by O’Leary-Burke Civil Associates, PLC,
124 dated 9/26/16.
125 • Plan Sheet #5, “Terrain Map, Lands of Leclerc, 35 Discovery Road + 186 Lost Nation
126 Road, Essex Jct., VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated
127 9/26/16.
128

129 **(B) Article IV: Subdivision Standards of the *Subdivision Regulations***

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131 The Planning Commission must evaluate any proposed subdivision based on the standards
132 of Article IV of the *Subdivision Regulations*. Standards include conformance to the *Town*
133 *Plan* and *Town of Essex Outside the Village of Essex Junction Official Zoning Regulations*.

Other applicable standards relate to public safety, natural features, streets, sidewalks, open space, availability of water and sewer, and stormwater management.

1. Section 4.1, Standards Applicable to All Subdivisions

- a) **Conformance with the *Town Plan*.** Section 4.1(P) of the *Subdivision Regulations* requires all subdivisions to conform to the *Town Plan*. The project complies with the following goals and objectives of the 2016 *Town Plan*:

Goal 4b: A diversity of housing types, including microhousing and choices between rental and ownership, is provided.

- b) **Conformance to the *Zoning Regulations*. Table 2.3, Agricultural Residential District (AR).** Section 4.1(G) of the *Subdivision Regulations* requires all subdivisions to conform to the *Zoning Regulations*. Table 2.3 of the *Zoning Regulations* describes the purpose of AR districts:

The purpose of this district is to protect lands with an economic capability for agriculture and which are now essentially undeveloped except for uses associated with agriculture or forestry. In this district, planned residential developments which do not remove the potential of the land for agricultural production such as open space, conservation and certain forms of outdoor recreation, are encouraged. Further road development and the extension of public water supply and sewage disposal systems are not planned for this district. Therefore only low density residential and recreation development which uses existing facilities, which can adequately dispose of its sewage, and is compatible with the district’s purpose and guidelines should be allowed.

- i) **Permitted Uses.** Single-family dwellings are allowed in AR districts.

- ii) **District Dimensional Requirements.**

Dimensional Requirement	Standard	Proposed
Minimum Lot Area	3 acres	3.01 acres
Minimum Lot Area per Dwelling Unit	3 acres	3.01 acres
Minimum Lot Frontage	200 ft.	201 ft.
Minimum Front Setback (from ROW)	50 ft.	360 ft.
Minimum Side Setback	20 ft.	20 ft.
Minimum Rear Setback	25 ft.	25 ft.
Minimum Buffer/Surface Waters	50 ft. (class II wetlands)	50 ft.
Maximum Height	40 ft.	

2. Section 4.3, Preservation of Natural Features

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a) Natural Features. The *Subdivision Regulations* specify,

Outstanding natural features of the site, including groves of trees, watercourses and falls, historic sites, exceptional views, and similar irreplaceable assets, shall be preserved. The Planning Commission may require building envelopes to be specified for some or all buildings where it is necessary to carefully define building locations and heights in order to protect the natural features listed in this section or identified on the Significant Features Reference Map.

The site is mostly forested. Class II wetlands are mapped on the Subdivision Plan, although only one of the proposed lots – Lot 24 – contains any wetlands. The site, including the proposed lots, features rolling hills, steep slopes, and ledge.

The Significant Features Map, Map 19 in the 2016 *Town Plan*, shows deer yards and contiguous habitat on much of the property.

The Vermont Agency of Natural Resources’ Natural Resource Atlas does not show a deer wintering area, but it shows the property as being in a habitat block that is scored 5 on a scale of 1 to 10, with 10 being the highest priority.

The ANR Atlas identifies the large wetland on the site as a Red Maple-Sphagnum Acidic Basin Swamp – significant natural community.

i. Natural contours. Section 4.3(A)(1) of the *Subdivision Regulations* specifies that subdivisions shall retain the natural contours of land and conserve natural cover and soil as much as possible.

The proposed lots show driveways running over steep slopes, with homes set on small, flat areas. The driveways would run through areas where slopes exceed 15 percent, including some slopes greater than 25 percent. As required by Sketch Plan approval, the applicant has submitted a blasting plan, dated September 6, 2016. Pre-blast surveys would be offered to property owners within a 500-foot radius of the blast site, and abutters and the Town would be notified of blasting at least three days in advance. Blasting would only take place between 8:30 a.m. and 4 p.m., Monday through Friday.

In addition to the steep slopes, the site is primarily forested. The Final Plan shows building envelopes on Lots 17, 22, 23, and 24 that will ensure the majority of each lot remains forested. If the Planning Commission approves the Final Plan, staff recommends including a condition that the mylar include a note indicating that no clearing can occur outside of the building envelopes, except as needed for access and utilities.

213 **ii. Erosion and Stormwater Control.** Section 4.3(A)(2) of the *Subdivision*
214 *Regulations* requires erosion and stormwater control plans when subdivision
215 improvements on slopes, unvegetated areas, or areas with fragile soil conditions.
216 Stormwater will be covered in more detail in Section IV(B)9 of this staff report.

217
218 **iii. Topsoil Removal.** Per Section 4.3(A)(3) of the *Subdivision Regulations*, “topsoil
219 removed in the process of grading the subdivision site shall be replaced to an
220 average depth of four (4) inches (10 cm) with a minimum depth of two (2) inches
221 (5 cm) and the site seeded in accordance with Soil Conservation Service
222 recommendations and the Town’s Public Works Specifications.”

223
224 **iv. Wetlands.** The property contains several Class II and Class III wetlands. The
225 *Subdivision Regulations* specify,
226
227 *No building, building envelope, road, sidewalk or utility shall be located*
228 *within wetlands ... and associated buffers, except as specified in Section*
229 *3.11(F) of the Town’s Zoning Regulations.*

230
231 Proposed Lot 24 contains a small portion of Class II wetland, with an existing
232 driveway running just outside the wetland buffer. Lots 17, 22, and 23 do not
233 contain wetlands.

234
235 **v. Lot sizes.** The *Subdivision Regulations* encourage the smallest possible lot sizes
236 that can site the primary use, accessory buildings, and access driveways. Small lot
237 sizes are intended to maximize the amount of open space.

238
239 AR districts have a minimum lot size of 3 acres. Lot 17 would have 10.99 acres.
240 Lots 22 and 23 would have just over 3 acres, and Lot 24 would have 5.11 acres.

241
242 **vi. Forested areas.** When a subdivision is proposed in a forested area, the
243 *Subdivision Regulations* require the developer to submit recommendations from a
244 professional forester regarding the location of subdivision improvements and the
245 removal of trees.

246
247 As recommended through Sketch Approval, the applicant has proposed building
248 envelopes that minimize the amount of clearing on each lot.

249
250 **b) New Trees.** The *Subdivision Regulations* require new street trees in areas where none
251 exist, or where existing trees would suffer life-shortening damage during
252 construction. At least one street tree needs to be provided for each 50 feet of frontage.

253
254 Because the site is primarily forested, staff does not believe street trees need to be
255 planted.

256

257 c) **Water Bodies and Adjacent Buffer Areas.** The *Subdivision Regulations* prohibit the
258 piping, damming, or alteration of any natural watercourse without the approval of the
259 Town and, where applicable, the State Department of Environmental Conservation.
260 Construction and site modifications to streams and their associated buffers are only
261 allowed in conformance with Section 3.11 of the *Zoning Regulations*, which provides
262 protections for surface waters and wetlands. Approved construction along streams
263 and buffers must conform to the applicable requirements of the Town’s Stormwater
264 Management Ordinance.

265
266 The site contains two streams: one flows through a northern portion of the site; the
267 other flows along the western boundary. It does not appear as if either stream would
268 be affected by the proposed subdivision.

269
270 **3. Section 4.4, Blocks and Lots – Planning and Design Standards**

271
272 The proposed subdivision does not contain any blocks.

273
274 In addition to meeting the dimensional requirements of the *Zoning Regulations*, lots
275 need to be of sufficient size to provide an adequate building site and suitable areas for
276 septic disposal and water supply. Lots need to have satisfactory access to a public street,
277 and must be laid out to provide positive drainage away from all buildings. Individual lot
278 drainage needs to be coordinated with the stormwater management plan for the entire
279 subdivision.

280
281 Proposed Lot 17, which has an existing home, would continue to have access from
282 LeClerc Woods Road, a private drive coming off Discovery Road.

283
284 Lots 22, 23, and 24 would have access from driveways off Discovery Road. Lots 22 and
285 23 would require new curb cuts and driveways, while Lot 24 would share an existing
286 driveway with Lot 19.

287
288 Driveway grades would be limited to 3 percent within 20 feet of the traveled way, as
289 required by the *Subdivision Regulations*. The driveways would then reach grades of up
290 to 12 percent. The *Zoning Regulations*, in Section 3.1(G)(4), provide access standards
291 for rights-of-way that specify no maximum grade in any 50-foot section shall exceed 10
292 percent. The Planning Commission has, however, warned a public hearing for proposed
293 changes to the *Zoning Regulations* that would allow driveway grades to have an average
294 grade of 12 percent, with no section steeper than 14 percent. The proposed driveways
295 would adhere to the proposed *Zoning Regulations*, although the revised regulations
296 would not take effect until the Selectboard has warned a public hearing.

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298 The Planning Commission, with Sketch Plan approval, asked the applicant to consider a
299 shared driveway for Lots 22 and 23. In a letter dated September 27, 2016, the applicant’s
300 engineer wrote,

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The applicant met with Public Works before applying for the subdivision and it was confirmed that a separate curb cut for each lot would be ok.

Lot 20 would remain undeveloped at this time.

a) Fire Department. The Fire Chief, in an email dated September 28, 2016, wrote,

I am assuming from the elevation drawings that they plan on blasting enough rock away to make the driveways compliant with the new PC rules about a 12% average although the sheets don't state that.

Based on some of the driveways shown, I will need to work with the architect about creating some landings close to the residences for parking and turning apparatus around. Some of what they have shown is too close to the building and too small for the size trucks we have.

Other than that, I would request that all driveways be clearly marked with address numbers and at any intersection if the drive is shared with another building so that they can be seen easily at night and with an average snow cover in winter.

b) Public Works. Public Works commented on the lots and driveway in a memorandum dated September 29, 2016:

The proposed curb cut locations for Lot's 22, 23, and 24 are clearly noted on the plans. Public Works takes no exception to the locations as proposed. The curb cut to Lot #24 will utilize the existing driveway to Lot #19. In order to achieve proper site distance and to ensure proper drainage along the portion of Discovery Road fronting the proposed subdivision, the applicant shall clear all vegetation a minimum of 10-feet off of the edge of road. The applicant shall establish a drainage swale from the curb cut of Lot 22, to the existing drive culvert for Lot 19. The invert of the Lot 19 drainage culvert shall be adjusted as required.

The proposed curb cut for Lot #23 is an existing logging road. The applicant will be required to submit a curb cut application and upgrade the existing logging cut to current Town standards. The applicant currently has a curb cut application submitted for a new logging road for 35 Discovery Road at the future location of Lot #22. It is the applicant's intent to leave the curb cut in place for the future driveway to Lot #22. Both of these curb cuts will be installed in accordance with Town specifications.

Proposed Lot #17 will gain access via the existing drive and curb cut off of

345 *Discovery Road. This existing curb cut and drive currently service Lot's 15*
346 *and 16. Existing Lot #14 gains access off of a curb cut and drive off of*
347 *Lamore Road. The current Land Development Code only allow a total of two*
348 *lots to be served by a single driveway / curb cut. As proposed, the additional*
349 *drive to Lot #17 will make the third curb cut of the existing curb cut on*
350 *Discovery Road. The Planning Commission has provided the applicant a*
351 *waiver to allow up to three units off of the existing Discovery Road curb cut*
352 *as part of a previous approval dated September 26, 2013.*

353
354 *It should be noted, all further lots created as part of future applications for*
355 *the remaining lands will not be able to gain access by the existing drive off of*
356 *Discovery Road without upgrading this drive to Town road standards.*

357
358 **4. Section 4.5, Streets**

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360 Streets need to be suitably located, of sufficient width, and adequately constructed to
361 accommodate prospective traffic, emergency vehicles, and road maintenance equipment.
362 The arrangement of streets needs to be coordinated with existing and planned major and
363 collector streets. Streets need to adhere to design standards established in the
364 *Subdivision Regulations.*

365
366 The applicant has not proposed any new streets with the subdivision.

367
368 **a) Police Department.** The Police Chief did not have any concerns with the subdivision
369 plan.

370
371 **b) Public Works Department.** Public Works, in a memorandum dated September 29,
372 2016, noted that the subdivision would be subject to traffic fees totaling \$4,315.89:

373
374 *A fee for the additional traffic from the additional lots needs to be assessed.*
375 *The fee shall be equivalent to installing 3" of crushed gravel along the length*
376 *of the road frontage multiplied by the width of half the road. The fee is based*
377 *on the cost of material only. The Town will apply the gravel as determined by*
378 *the Public Works Department.*

379
380 Lamore Road

381 $469.0 \text{ ft.} \times 0.25 \text{ ft.} \times 12 \text{ ft.} = 1,407 \text{ ft}^3$
382 $1,407 \text{ ft}^3 \times 1 \text{ cy}/27 \text{ ft}^3 = 52.1 \text{ cy}$
383 $52.1 \text{ cy} \times \$35.00/\text{cy} = \mathbf{\$1,823.89}$

384
385 Discovery Road

386 $641.0 \text{ ft.} \times 0.25 \text{ ft.} \times 12 \text{ ft.} = 1,923 \text{ ft}^3$
387 $1,923 \text{ ft}^3 \times 1 \text{ cy}/27 \text{ ft}^3 = 71.2 \text{ cy}$
388 $71.2 \text{ cy} \times \$35.00/\text{cy} = \mathbf{\$2,492.00}$

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Total Impact Fee

\$4,315.89

5. Section 4.6, Sidewalks – Planning and Construction Standards

The *Subdivision Regulations* require the installation of sidewalks along existing streets when a street is located in a high- or medium-density residential zone or when the Planning Commission determines that a significant amount of pedestrian traffic will exist.

The applicant does not plan to install sidewalks. Because the property is located in a low-density residential zone, staff does not believe sidewalks are necessary.

6. Section 4.7, Land for Public Open Space and Recreational Use

The *Subdivision Regulations* allow the Town to accept land reserved for public recreation purposes in lieu of all or part of recreation impact fees. Trails and conservation greenways identified in the *Town Plan* must be accommodated within open space and recreation areas.

The applicant has not proposed any public open space. The *Town Plan* Map 5 shows a proposed horseback trail running through the property, approximately along the location of the private LeClerc Woods Road. The Planning Commission has agreed that such a trail will not be required.

The Parks and Recreation Director, in an email dated September 30, 2016, noted that the homes would be subject to recreation impact fees.

7. Section 4.8, Utility and Access Easements and Improvements

a) Easements for Utilities, Drainage and Access. When utilities or drainage facilities cannot be installed in street rights-of-way, applicants must provide the Town with perpetual, unobstructed easements. The easements shall be centered on rear or side lot lines and have satisfactory access to the street.

The Planning Commission can require perpetual, unobstructed easements to facilitate non-motorized, multi-use facility user access to public open space or adjacent properties as part of a proposed contiguous access plan.

The Subdivision Plan shows access easements to lots 15, 16, and 17. A 20-foot-wide pedestrian path easement is shown along the southern property boundary. The Trails Committee, at its meeting on August 9, 2016, noted that the terrain along the southern property boundary would make it difficult to create a footpath in the

433 easement.

434

435 Lots 22, 23, and 24 would have sewer easements running to a septic system on Lot
436 20.

437

438 **b) Utility Improvements.** Public utility improvements shall be installed in accordance
439 with Public Works Specifications, and shall be installed underground unless doing so
440 is infeasible.

441

442 **8. Section 4.9, Water Supply and Waste Water Systems**

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444 **a) Water Supply.** When a public water supply is reasonably accessible, applicants are
445 required by the *Subdivision Regulations* to connect to the public system. If a
446 connection to a public water system is not appropriate, the applicant needs to provide
447 an alternative system. Any connection to a non-municipal system requires all
448 applicable state approvals and permits.

449

450 As noted in the project narrative dated July 27, 2016, Lot 17 has an existing well.
451 Lots 22, 23, and 24 would have on-site wells. The applicant is awaiting state water
452 permits.

453

454 **b) Waste Water Systems.** The property is located outside of the Town’s sewer core
455 area. Lot 17 has an existing septic system. Lots 22, 23, and 24 would share an off-
456 site septic system on Lot 20.

457

458 The applicant is awaiting state wastewater permits.

459

460 **9. Section 4.10, Stormwater Management and Erosion Control**

461

462 The *Subdivision Regulations* require all proposed subdivisions to include a stormwater
463 management and erosion control plan that adheres to the Town’s Stormwater
464 Management Ordinance. The plan must address stormwater management and erosion
465 control during and after construction.

466

467 In a letter dated September 27, 2016, the applicant’s engineer wrote,

468

469 *The project will produce 0.48 acres of impervious coverage, and will not require*
470 *a town stormwater permit.*

471

472 The subdivision plans show stormwater swales on the new lots, as well as the locations
473 for silt fencing.

474

475 **10. Section 4.11, Monuments and Lot Markers**

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477 If the project obtains Final Plan approval, the applicant shall install concrete monuments
478 and lot markers to the standards specified in Section 4.11 of the *Subdivision*
479 *Regulations*.

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481

482 **V. Article II, Section 2.7 of the *Subdivision Regulations*: Master Plan**

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484 *Subdivision Regulations* require a Master Plan “for any project which is intended to be developed
485 in phases and for which approval of only one phase is currently requested, or for any project
486 where development of only part of the parcel is proposed and the remaining land exceeds in area
487 three times the minimum lot size in the district in which the subdivision is located.”

488

489 Per Section 2.7(B) of the *Subdivision Regulations*, a Master Plan serves the following purpose:

490

491 *The purpose of the preparation and review of a Master Plan by the Planning Commission*
492 *is to acquaint the Commission with the entire tract of land without requiring the*
493 *presentation of extensive surveying, engineering, or design data, to identify significant*
494 *features warranting future protection, and to facilitate anticipated future development in*
495 *an orderly manner. Applicants are encouraged to explore different schemes by presenting*
496 *alternative plans that represent thoughtful site planning and are in conformance with the*
497 *Town Plan and Bylaws.*

498

499 The applicant has requested a Master Plan Amendment. In the project narrative dated July 27,
500 2016, the applicant’s engineer wrote,

501

502 *The Master Plan has been updated to show the proposed new lots. Previously, the Master*
503 *Plan showed LeClerc Woods Road being upgraded to a Town road and the road looping*
504 *back to Discover Road. A number of PUD lots (less than 3 acres) were proposed along*
505 *the new Town road frontage. The current Master Plan now shows a future Town road*
506 *ending in a cul-de-sac, eliminating the looped Town road and the PUD (less than 3*
507 *acres) lots. All of the proposed future lots would be greater than 3 acres in size. The plan*
508 *continues to show 20 “footprint lot” units in the southwest corner of the property to be*
509 *accessed from Lamore Road.*

510

511

512 **VI. Article III of the *Subdivision Regulations*: Residential Phasing**

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514 The goal of Residential Development Phasing is to maintain an annual population growth
515 between 184 and 226, a rate set forth in the 2016 *Town Plan*. The Town aims for an annual
516 population increase of 205, at the midpoint of target range. Population figures are estimated
517 based on a conversion of dwelling units to Estimated Population Equivalents (EPEs). Each
518 bedroom in a dwelling unit translates to one person, so that 1 bedroom = 1 person, 2 bedrooms =
519 2 persons, 3 bedrooms = 3 persons, and so forth. Section 3.2(D) of the *Subdivision Regulations*

520 directs the Planning Commission to consider the number and type of dwelling units proposed in
521 a development, as well as the number of bedrooms in the units.

522
523 Any single project is allowed to add 20 dwelling units per calendar year if the development is
524 within the sewer core, and five units if the development is outside the sewer core. The Planning
525 Commission can allow exceptions to achieve *Town Plan* objectives related to affordable housing,
526 or if the project contains three or fewer dwelling units. The Planning Commission must act on a
527 preliminary phasing request when a proposed development obtains sketch plan approval. Final
528 allotment is granted if the development secures Final Plan approval.

529
530 The proposed subdivision would result in the addition of three dwelling units outside the sewer
531 core. The applicant expects each lot to have a four-bedroom home. The Planning Commission
532 has approved a preliminary phasing schedule of three homes and 12 EPEs in 2016, which
533 brought the total number of preliminary and final EPEs for the entire Town to 187 in 2016,
534 including 27 EPEs outside the sewer core. If the Planning Commission approves the Final
535 subdivision plan, staff recommends the final phasing schedule also be approved.

536
537 A summary of the running phasing tabulation is attached.

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539

540 **VII. Planning Commission comments**

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542 While reviewing the project on August 25, 2016, the Planning Commission determined that it is
543 in favor of going forward with the application, however the driveway grades are a concern. This
544 issue should be alleviated at final plan application. The Planning Commission agreed to a site
545 visit and instructed staff to invite the fire chief.

546
547 The Planning Commission acknowledged that the outstanding violations are close to a
548 resolution.

549
550 The Planning Commission noted that proof of a good faith offer for a boundary adjustment
551 regarding the non-conforming lot (Lot 14) was made, and that it included the well for Lot 14.

552
553 While reviewing the project on October 13, 2016, the Planning Commission determined ...

554
555

556 **VIII. Proposed Conditions**

- 557
- 558 1. All conditions from previous approvals shall remain in effect except as modified herein.
 - 559
 - 560 2. All construction shall be in conformance with the plans listed in Section IV(A) of this
561 Staff Report and as may be amended subject to other conditions and approvals.
 - 562
 - 563 3. The applicant shall resolve any outstanding zoning violations within 180 days of this

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- 564 approval, or the Final Plan approval shall be deemed void.
565
- 566 4. The applicant shall be approved for a final residential phasing schedule of three homes
567 and 12 EPEs in 2016.
568
- 569 5. Prior to the issuance of a zoning permit, the applicant shall submit a curb cut application
570 for Lot 23 and upgrade the existing logging cut to current Town standards.
571
- 572 6. Prior to the issuance of a zoning permit, the applicant shall work with the Fire Chief to
573 create driveway designs that accommodate landings close to the residences for parking
574 and turning around fire apparatus.
575
- 576 7. All utility lines shall be installed underground.
577
- 578 8. Prior to the issuance of a zoning permit, the applicant shall submit any and all deeds and
579 legal documents as a result of this approval for review by the Town Attorney.
580
- 581 9. Prior to the issuance of a zoning permit, the applicant shall pay traffic fees totaling
582 \$4,315.89.
583
- 584 10. Prior to the issuance of a zoning permit, the applicant shall pay recreation impact fees in
585 place at the time of submittal.
586
- 587 11. A mylar shall be recorded in the Land Records no more than 180 days from the date of
588 the written approval, otherwise the subdivision is void. The mylar and three paper copies
589 shall be submitted to the Community Development Department at least one week prior to
590 the 180-day expiration. The mylar shall include a note indicating that no clearing can
591 occur outside of the building envelopes, except as needed for access and utilities.
592
- 593 12. Prior to the issuance of a zoning permit, building envelopes shall be marked out on the
594 site. Markings shall remain in place throughout construction.
595
- 596 13. Prior to the issuance of a zoning permit, the applicant shall obtain all applicable state
597 approvals and permits, including water and wastewater permits.
598
- 599 14. Prior to the issuance of a certificate of occupancy, the applicant shall clear all vegetation
600 a minimum of 10 feet from the edge of Discovery Road on Lots 22, 23, and 24 to achieve
601 proper site distance and to ensure proper drainage.
602
- 603 15. Prior to the issuance of a certificate of occupancy, the applicant shall establish a drainage
604 swale from the curb cut of Lot 22 to the existing drive culvert for Lot 19. The invert of
605 the Lot 19 drainage culvert shall be adjusted as required.
606

**Final Plan Approval – 5-Lot Subdivision
35 Discovery Road
October 13, 2016**

607 16. Prior to the issuance of a certificate of occupancy, the 911 street address for each home
608 shall be labeled with 6-inch reflective street numbers in a way that is immediately
609 noticeable by approaching emergency vehicles. This condition applies to homes on
610 Discovery Road and LeClerc Woods.

611
612 17. By accepting the conditions of this approval without appeal, the applicant confirms and
613 agrees for himself and all assigns and successors in interest that the conditions of this
614 approval shall run with the land and the land uses herein permitted, and will be binding
615 upon and enforceable against the applicant and all assigns and successors in interest.
616
617

618 **IX. Attachments**

- 619
- 620 • Narrative, “LeClerc Property, 35 Discovery Road, Preliminary and Final – Five Lot
621 Subdivision & Master Plan Amendment,” from Shawn Cunningham, E.I., O’Leary-Burke
622 Civil Associates, PLC, dated 9/9/16.
 - 623 • Letter, “LeClerc Property Subdivision, 35 Discovery Road,” from Shawn Cunningham, E.I.,
624 O’Leary-Burke Civil Associates, PLC, dated 9/27/16.
 - 625 • Email, “RE: 35 Discovery Rd,” from Shawn Cunningham, E.I., O’Leary-Burke Civil
626 Associates, PLC, dated 10/6/16.
 - 627 • Email, “RE: Discovery Road Preliminary/Final,” from Chief Bradley J. LaRose, Essex Police
628 Department, dated 9/22/16.
 - 629 • Email, “Re: Discovery Road Final,” from Charles J. Cole, Chief, Essex Fire Department,
630 dated 9/22/16.
 - 631 • Email, “RE: 35 Discovery Road,” from Chief Bradley J. LaRose, Essex Police Department,
632 dated 9/28/16.
 - 633 • Email, “Re: 35 Discovery Road,” from Charles J. Cole, Chief, Essex Fire Department, dated
634 9/28/16.
 - 635 • Memorandum, “Preliminary / Final Review – LeClerc 5-Lot Subdivision, 35 Discovery
636 Road,” from Dennis Lutz, P.E., Public Works Director/Town Engineer; Aaron Martin, P.E.,
637 Utilities Director/Town Engineer; and Annie Costandi, E.I., Stormwater Coordinator/Staff
638 Engineer, dated 9/29/16.
 - 639 • Email, “35 Discovery Road,” from Ally Vile, CPRP, Director, Essex Parks and Recreation,
640 dated 9/30/16.
 - 641 • “Residential Phasing Report,” from Town of Essex Community Development, dated 10/5/16.

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644 cc: Paul O’Leary, O’Leary-Burke Civil Associates
645 Shawn Cunningham, O’Leary-Burke Civil Associates
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