February 13, 2020

Al Senecal d/b/a
Allen Brook Development Inc.
31 Commerce Ave.
South Burlington, VT 05403

Re: 21 PINECREST DRIVE, ESSEX JCT., VT
FINAL PLAN AMENDMENT
APPROVAL #PC:2020-3

Dear Mr. Senecal:

The Town of Essex Community Development Department received your application for a Minor Final Plan Amendment which would allow the sewer to be re-routed to the project.

Pursuant to Article II, Section 2.12(B)(1) of the Town of Essex Official Subdivision Regulations, staff determined that the application did not involve substantial changes and prepared a draft decision for review by the Planning Commission. The Commission considered and approved the proposed amendment under its consent agenda on February 13, 2020.

Pursuant to state statute and Section 2.5(B)(2) of the Subdivision Regulations, a “Notice of Hearing” was provided to the applicant for posting on the property. The abutting property owners, applicant and landowner were mailed a copy of this draft approval prior to the hearing.

BACKGROUND:

This parcel received approval for 24-units of Congregate Housing from the Zoning Board of Adjustments and Final Plan approval from the Planning Commission in 2007. This project was originally owned by DDH-GSH Trust (c/o Gabe Handy) and consisted of two adjacent parcels, a 1.28 acre lot located at 21 Pinecrest Drive and a 0.37 acre lot located at 23 Pinecrest Drive. Part of the original design involved constructing 800 feet of sewerline down Pinecrest drive to connect the project to an existing sewer manhole located at the intersection of Pinecrest Drive and Joshua Way.
The project has been on hold since it was approved due to the high cost of the Pinecrest Drive sewerline extension. In 2013, DDH-GSH sold the land (approvals run with the land), to Allen Brook Development, Inc. In 2014, DDH-GSH sold a third adjacent parcel located at 241 Pearl Street to LNP Inc. Both Allen Brook Development and LNP are owned by Al Senecal and those two purchases made it possible to reroute the sewer to Joshua Way via a pump station rather than down Pinecrest Drive.

FINDINGS:

1. The landowner is Al Senecal d/b/a Allen Brook Development Inc. The property is known as 21 Pinecrest Drive and is located in the Mixed Use (MXD) Zoning District, in the Town of Essex, Chittenden County, State of Vermont.

2. The proposal is a Final Plan Amendment to the approved ‘24-unit Handy Congregate Housing complex’ by the allowance of a new pump station (to be owned by the Town of Essex) and forearm connection to the municipal sewer down Joshua Way. The proposed change was designed with input from the Town Engineer. No changes to the building, site, landscaping, lighting, or other utilities are proposed. The ‘Final Plan’ written approval was granted on September 20, 2007, and recorded at Slide 438.

3. The State Drinking and Groundwater Protection Division reviewed and approved the proposal. Reference Wastewater and Potable Water Supply Permit #WW-4-3279-1 (attached as ‘Exhibit A’).

4. The following plans were submitted with this application:

- Sheet No. 1, “Overall Plan, Congregate Housing Complex, Handy Parcel, 21 & 23 Pinecrest Dr., Essex, VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated 8/31/06, last revised 12/16/19;
- Sheet No. 2, “Final Site Plan-20 Scale, Congregate Housing Complex, Handy Parcel, 21 & 23 Pinecrest Dr., Essex, VT,” O’Leary-Burke Civil Associates, PLC, dated 8/31/06, last revised 12/16/19;
- Sheet No. 3, “Landscape Plan, Congregate Housing Complex, Handy Parcel, 21 & 23 Pinecrest Dr., Essex, VT,” O’Leary-Burke Civil Associates, PLC, dated 8/31/06, last revised 12/16/19;
- Sheet No. 4, “Lighting Plan, Congregate Housing Complex, Handy Parcel, 21 & 23 Pinecrest Dr., Essex, VT,” O’Leary-Burke Civil Associates, PLC, dated 8/31/06, last revised 12/16/19;
- Sheet No. 5, “Roads & Sanitary Sewer, Details and Specifications, Handy Parcel, 21 & 23 Pinecrest Dr., Essex, VT,” O’Leary-Burke Civil Associates, PLC, dated 8/31/06, last revised 12/16/19;
- Sheet No. 6, “Water, Details and Specifications, Handy Parcel, 21 & 23 Pinecrest Dr., Essex, VT,” O’Leary-Burke Civil Associates, PLC, dated 8/31/06, last revised 9/23/19;
- Sheet No. 7, “Plan & Profile, Pinecrest Congregate Building, 21 Pinecrest Drive,
Essex Junction, Vermont,” O’Leary-Burke Civil Associates, PLC, dated 8/31/06, last revised 12/16/19;

- Sheet No. 8, “Pump Station Details, Pinecrest Pump Station, 21 Pinecrest Drive Essex Junction, Vermont,” O’Leary-Burke Civil Associates, PLC, dated 5/17/19, last revised 12/19/19; and

- Sheet No. 9, “Sewer Details & Specifications, 21 Pinecrest Drive, Essex, VT, dated 12/19/19.

- Sheet E1, “Erosion Control Plan, Congregate Housing Complex, Handy Parcel, 21 & 23 Pinecrest Dr., Essex, VT,” O’Leary-Burke Civil Associates, PLC, dated 8/31/06, last revised 12/16/19;

- Sheet A1.0, “Garage Floor Plan,” Innovative Design, Inc., dated 02/16/07;

- Sheet A1.1, “First Floor Plan,” Innovative Design, Inc., dated 02/16/07;


- Sheet A1.3, “Third Floor Plan,” Innovative Design, Inc., dated 02/16/07; and

- Sheet A2.1, “Elevations” Innovative Design, Inc., dated 02/27/07;

5. In an email dated 1/29/, the Fire Chief said,

   My only added comment would be to have the sewer pump station labeled with a contact in case of any alarms or problems with the system.

Battalion Chief Shearan added,

   The Fire Department is requesting that (Class 1 wet standpipes be installed in all stairwells of the building and if the roof is to be a pitched roof that dry sprinkler system be installed in attic area). The applicant is aware that we prefer this type of added fire suppression component to our three story residential occupancy in Town of Essex in which they have accommodated this request for us in previous projects (7 & 9 Joshua Way and most recently 100 Griffin Lane Gardenside apartments). I just want the request noted in the minutes and is something that EFD will work with directly with the applicant and Vermont State Division of Fire Safety if the applicant can grant our request.

6. The Police Chief and Recreation Director have no issues with the proposal.

7. Public Works provided a detailed memo regarding the changes to the sewer and is attached as Exhibit ‘B’.

8. Notification of the application was posted on the premises and abutters were notified by certified mail.

9. The applicant was emailed a copy of this draft approval letter prior to the meeting.
CONDITIONS:

1. A signature block for the PC Chair and the Town Clerk shall be added to the Final Site Plan for recording in the Land Records. A note shall be made referencing the previous plat location.

2. A formal manufacturer's submittal for the pump station and all other necessary equipment and materials shall be provided to Public Works for review and acceptance.

3. All permanent easements for sanitary sewer infrastructure and access to the pump station shall be submitted to the Town for review and recorded prior to construction of any sanitary sewer infrastructure.

4. The applicant shall adhere to the requirements within the May 1, 2006 Sewer Allocation Agreement and the approved amendment approved by the Selectboard explained in the January 15, 2014 memo.

5. The applicant shall submit all water and sewer applications with appropriate fees prior to issuance of a building permit. The applicant shall secure any state permits that may be required as a result of this approval.

6. The applicant shall adhere to all previous Findings and Conditions of prior approvals that are not affected by this amendment.

7. By acceptance of the conditions of this approval without appeal, the applicant confirms and agrees for himself and all assigns and successors in interest that the conditions of this approval shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the applicant and all assigns and successors in interest.

It is the conclusion of the Essex Planning Commission that the project described in the application referred to above, if completed and maintained in conformance with the foregoing findings of fact and conditions, will not cause a detriment to the health, safety and welfare of the inhabitants of the Town of Essex and will conform with the Town of Essex Official Zoning Regulations adopted pursuant to 24 V.S.A Chapter 117.
This decision may be appealed to the Vermont Environmental Court pursuant to Section 7.4 of the *Town of Essex Official Zoning Regulations* and 24 V.S.A.§ 4471. Any appeal must be filed by certified mail to the Environmental Court and by mailing a copy to the Essex Town Clerk within 30 days of the date of this approval.

**TOWN OF ESSEX PLANNING COMMISSION**

Dustin R. Bruso, Chair

Joshua Knox, Vice-Chair

John Mangan, Clerk

David P. Raphael

Johnathan Schumacher

Ned Daly

John Alden

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g:\commdev\pc\approval\Fox Run Rd Landscape DEC2019
WASTEWATER SYSTEM AND POTABLE WATER SUPPLY PERMIT

LAWS/REGULATIONS INVOLVED
10 V.S.A. Chapter 64, Potable Water Supply and Wastewater System Permit
Wastewater System and Potable Water Supply Rules, Effective April 12, 2019

Landowner(s): Allen Brook Development Inc.
31 Commerce Avenue
South Burlington VT 05403

Permit Number: WW-4-3278-1

This permit affects the following properties in the Town of Essex, Vermont:

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<th>Lot</th>
<th>Parcel</th>
<th>SPAN</th>
<th>Acres</th>
<th>Book/Page#’s</th>
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<td>1.64</td>
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This project, consisting of a 24 unit congregate care building (Senior Housing), with 24 two bedroom units on an existing, parcel utilizing municipal water and wastewater services, located at 21 Pinecrest Drive in the Town of Essex, Vermont, is hereby approved under the requirements of the regulations named above subject to the following conditions.

1. GENERAL

1.1 The project shall be completed as shown on the plans and/or documents prepared by O’Leary – Burke Civil Associates, PLC (Paul O’Leary P.E.), with the stamped plans listed as follows:

<table>
<thead>
<tr>
<th>Title</th>
<th>Plan Sheet #</th>
<th>Plan Date</th>
<th>Revision Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water &amp; Sewer Plan</td>
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<td></td>
</tr>
<tr>
<td>Pump Station Details</td>
<td>2</td>
<td>5-17-19</td>
<td></td>
</tr>
<tr>
<td>Water &amp; Sewer Details</td>
<td>3</td>
<td>7-29-19</td>
<td></td>
</tr>
</tbody>
</table>

1.2 This permit does not relieve the landowner from obtaining all other approvals and permits PRIOR to construction including, but not limited to, those that may be required from the Act 250 District Environmental Commission; the Drinking Water and Groundwater Protection Division; the Watershed Management Division; the Division of Fire Safety; the Vermont Department of Health; the Family Services Division; other State departments; or local officials.

1.3 The conditions of this permit shall run with the land and will be binding upon and enforceable against the landowner and all assigns and successors in interest. The landowner shall record and index this permit in the Essex Land Records within thirty, (30) days of issuance of this permit and prior to the conveyance of any lot subject to the jurisdiction of this permit.

1.4 The landowner shall record and index all required installation certifications and other documents that are required to be filed under these Rules or under a specific permit condition in the Essex Land Records and ensure that copies of all certifications are sent to the Secretary.

1.5 No permit issued by the Secretary shall be valid for a substantially completed potable water supply and wastewater system until the Secretary receives a signed and dated certification from a Vermont Licensed Designer (or where allowed, the installer) that states:

"I hereby certify that, in the exercise of my reasonable professional judgment, the installation-related information submitted is true and correct and the potable water supply and wastewater system were installed in accordance with the permitted design and all the permit conditions, were inspected, were properly tested, and have successfully met those performance tests”,

or which otherwise satisfies the requirements of §1-311 of the referenced rules.

1.6 The project is approved for the construction a 24 unit congregate care building (Senior Housing), with 24 two bedroom units. Construction of additional nonexempt buildings, including commercial and residential buildings, is not allowed without prior review and approval by the Drinking Water and Groundwater Protection Division and
such approval will not be granted unless the proposal conforms to the applicable laws and regulations. No construction is allowed that will cause non-compliance with an existing permit.

1.7 Each purchaser of any portion of the project shall be shown a copy of the Wastewater System and Potable Water Supply Permit and the stamped plan(s), if applicable, prior to conveyance of any portion of the project to that purchaser.

1.8 By acceptance of this permit, the landowner agrees to allow representatives of the State of Vermont access to the property covered by the permit, at reasonable times, for the purpose of ascertaining compliance with the Vermont environmental and health statutes and regulations, and permit conditions.

1.9 Any person aggrieved by this permit may appeal to the Environmental Court within 30 days of the date of issuance of this permit in accordance with 10 V.S.A. Chapter 220 and the Vermont Rules of Environmental Court Proceedings.

2. WATER SUPPLY

2.1 The components of the potable water supply herein approved shall be routinely and reliably inspected during construction by a Vermont Licensed Designer (or where allowed, the installer) who shall, upon completion and prior to occupancy of the associated building, report in writing to the Drinking Water and Groundwater Protection Division that the installation was accomplished in accordance with the referenced plans and permit conditions, as specifically directed in Condition #1.5 herein.

2.2 The project approved for connection to the water supply system owned by the Town of Essex as depicted on the plan(s) stamped by the Drinking Water and Groundwater Protection Division. The project is approved for 5,040 gallons of water per day.

2.3 This project is approved for connection to a public water system. The installation of the public water system shall be completed in accordance with the conditions of the Public Water System Permit to Construct Project #C-3728-19.0# WSID # VT0005065 dated September 18, 2019 or any subsequent approvals for this system issued by the Drinking Water and Groundwater Protection Division.

2.4 The landowner shall install and maintain backflow prevention devices that conform to Vermont Department of Public Safety standards and NFPA 13 for any connection of a sprinkler fire suppression system to a public drinking water system.

2.5 This permit is based, in part, on a determination by the municipality that sufficient capacity exists in the municipal water supply and associated water distribution system to accommodate the design flow of this project. This permit does not imply that the municipality will grant allocation for the project subject to this permit to physically connect to or receive water from the municipal water supply. It is recommended the landowner forward a copy of the final municipal allocation to the Drinking Water and Groundwater Protection Division with the installation certification required by Condition 1.5 of this permit for inclusion in the project file.

3. WASTEWATER DISPOSAL

3.1 The components of the wastewater system herein approved shall be routinely and reliably inspected during construction by a Vermont Licensed Designer (or where allowed, the installer) who shall, upon completion and prior to occupancy of the associated building, report in writing to the Drinking Water and Groundwater Protection Division that the installation was accomplished in accordance with the referenced plans and permit conditions, as specifically directed in Condition #1.5 herein.

3.2 The project is approved for connection to the Town of Essex wastewater treatment facility as depicted on the plan(s) stamped by the Drinking Water and Groundwater Protection Division. The project is approved for 5,040 gallons of wastewater per day.

3.3 This permit is based, in part, on a determination by the municipality that sufficient capacity exists in the wastewater treatment facility and associated sewerage collection system to accommodate the design flow of this project. This permit does not imply that the municipality will grant allocation for the project subject to this permit to physically connect or discharge wastewater to the municipal sewer. It is recommended the landowner forward a copy of the final municipal allocation to the Drinking Water and Groundwater Protection Division with the installation certification required by Condition 1.5 of this permit for inclusion in the project file.
3.4 All conditions set forth in **Permit Number WW-4-3278** shall remain in effect except as amended or modified herein.

3.5 A portion of the wastewater collection and delivery system, which is to serve this project is located on the lands identified on the approved Plans. The land deeds that establish and transfer ownership of these parcels shall contain a legal easement which grants the purchaser(s) and any future owner(s) the right to enter upon the property for the construction, repair, maintenance and other such reasonable purposes as may arise regarding the wastewater collection and delivery system. Failure to properly execute the easement renders this permit null and void for any lot/the project conveyed without the proper easement. It is recommended that a copy of the executed easement be sent to the Drinking Water and Groundwater Protection Division.

Emily Boedecker, Commissioner
Department of Environmental Conservation

Dated September 24, 2019

By
William E. Zabiloski
Regional Engineer
Essex Junction Regional Office
Drinking Water and Groundwater Protection Division

cc: O'Leary – Burke Civil Associates, PLC
Town of Essex Planning Commission
Memorandum

To: Sharon Kelley, Zoning Administrator
From: Dennis Lutz, P.E., Public Works Director
        Aaron Martin, P.E., Town Engineer / Utility Director
Date: January 07, 2020
Re: 21 & 23 Pinecrest Drive Congregate Housing Final Plan Amendment

Public Works has reviewed the changes to the proposed congregate housing facility to be located at the above address and offers the following comments and recommendations.

Sewer Allocation:

The original approval for 21 Pinecrest Drive was for a 72 Unit housing facility. The Town Selectboard approved the additional sewer allocation required with conditions on May 1, 2006. A copy of the original sewer allocation application with conditions can be found as Attachment A of this memo. The total approved sanitary sewer allocation was for 7,200 GPD, (36.0 E.U.). The project has since changed hands and is currently owned by LNP, Inc., c/o Al Senecal.

On January 9, 2014, Mr. Senecal made a formal request to the Selectboard to transfer a total of 2,000 GPD, (10.0 E.U.), from the lot at 21 Pinecrest Drive to an adjoining property now know as 9 Joshua Way. This transfer was approved by the Selectboard with conditions and minor amendments to the original allocation agreement. The original memo to the Selectboard with supporting documentation has been provided as Attachment B of this memo. The approval for the sewer allocation transfer of 2,000 GPD, (10.0 E.U.), required the proportionate payment of $48,650 of the original $175,000 noted in Items 3 and 4 of the original sewer allocation approval.

Following the approval by the Selectboard of the allocation transfer, the property known as 21 Pinecrest Drive has 5,200 GPD, (26.0 E.U.) of allocation available for purchase. In addition to the sanitary sewer allocation, the applicant was required to pay $48,650, (see previous paragraph), to the Town of Essex. The current amount owed by the applicant as noted in Item 5 of the original allocation approval, as amended by the Selectboard is now $126,350.

The applicant has a previous approval for a 24-Unit congregate housing facility to be located at 21 Pinecrest Drive. This project requires 2,400 GPD, (12.0 E.U.), of sanitary sewer allocation. The lot currently has sufficient approved allocation for this project. The lot will have 2,800 GPD, (14.0 E.U.), of remaining approved sanitary sewer allocation.

In addition to paying the appropriate connection fee’s, the applicant will be required to meet all the conditions of the original sewer allocation conditions of approval. As stated above, there is an outstanding balance of $126,350 of sewer impact fee’s that must be paid by the applicant. Item No. 4 of the original conditions of approval states; “The Town shall credit the applicant with the cost of construction of a portion of the Pinecrest sewer constructed by the applicant towards the applicants total cost of the Pinecrest Drive sewer up to a credit limit of $175,000.” As part of this
proposed project, the applicant has designed a gravity sewer to extend to the ROW of Pinecrest Drive that will be constructed at the required elevations to provide the depth necessary to extend sewer along Pinecrest Drive both east and west. Also, a new sanitary sewer pump station, adequately sized for future design flows, will be constructed to convey sewer into the Towns gravity sewer system on Joshua Way. The total project cost to construct the sewer infrastructure will be in excess of $135,000. It is the opinion of Public Works that upon final completion of this project that condition No. 4 of the original sewer allocation approval will have been met by the applicant.

**Water and Sewer Fee’s:**

The water and sewer connection fee’s to be charged shall be the fee in effect at the time of submittal for a building permit. The total fee’s calculated below are based on the fee’s in effect at the time this memo was written and may change at a future date.

\[
\text{Water: } 2,400 \text{ GPD} \times \$5.73/\text{gal} + \$1000 = \$14,752.00 \\
\text{Sewer: } 2,400 \text{ GPD} \times \$10.30/\text{gal} + \$1000 = \$25,720.00 \\
\text{Total } = \$40,472.00
\]

**Sanitary Sewer Pump Station:**

The applicant’s engineer has worked with Staff to properly site and size the pump station. Public Works takes no exception to the current proposed facilities described in the attached email from the applicant dated December 23, 2019. As stated in the email, the applicant shall provide a formal submittal to Public Works for review and acceptance prior to construction. A copy of this email with attachments has been provided as Attachment C of this memo.

**Recommendation:**

It is recommended that the Planning Commission condition this approval as follows.

1. A formal manufacturer’s submittal for the pump station and all other necessary equipment and materials shall be provided to Public Works for review and acceptance.
2. All permanent easements for sanitary sewer infrastructure and access to the pump station shall be submitted to the Town for review and recorded prior to construction of any sanitary sewer infrastructure.
3. The applicant shall adhere to the requirements within the May 1, 2006 Sewer Allocation Agreement and the approved amendment approved by the Selectboard explained in the January 15, 2014 memo.
4. The applicant shall submit all water and sewer applications with appropriate fees prior to issuance of a building permit.
TOWN OF ESSEX
OUTSIDE THE VILLAGE OF ESSEX JUNCTION
Sewer Allocation Permit Application
81 Main St., Essex Jct., VT 05452 (802)878-1341 www.essex.org

Application Date

Penmit No. 07 - 01

attAchment a

Required info for all categories of applications:
- Requested volume of wastewater flow (in gallons per day and in equivalent user units):
  7,200 gpd 36 EU's (Note: 1 EU = 200 gpd)
- Attach documentation/calculations on the basis of wastewater flow estimate, including information on characteristics of waste in cases other than normal domestic wastewater.
- Certification by a professional engineer for developments generating more than 1,000 gpd of wastewater flow.
- Allocation in EU's for the requested parcel(s) as identified on the approved Sewer Allocation Map.
- Applications shall be submitted to the Town Manager's Office by hand delivery/mail; 81 Main St., Essex Jct., VT 05452 or by facsimile; 802-878-1353

complete the following:

Allocation requested is for _✓_ PRELIMINARY or _-_ FINAL Approval?

Date Sketch Plan Approval granted by the Planning Commission: _Dec 22, 2005_

check ONE of the following:

✓ The permit application is for development on land area with designated allocation capacity equal to or less than 100% of the proved sewer allocation for the parcel. NO ADDITIONAL INFORMATION IS REQUIRED.

✓ The permit application is for development on land area with designated capacity over 100% but less than or equal to 125% approved sewer allocation for the parcel. PROVIDE THE FOLLOWING ADDITIONAL INFORMATION:
  - Documentation on the adequacy of the existing sewer system to accommodate the added flow.
  - Information on how the use of the Town's infrastructure supports the goals of the Town Plan.

✓ The permit application is for development on land area with designated capacity in excess of 125% of the approved sewer allocation for the parcel or for allocation on a parcel not granted capacity in the Study or included within a Category A development as in the latest Sewer Allocation Study. PROVIDE THE FOLLOWING ADDITIONAL INFORMATION:
  - Documentation on the adequacy of the existing sewer system to accommodate the added flow.
  - Information on how the use of the Town's infrastructure supports the goals of the Town Plan.
  - Documentation on the need for connection to the sewer system with potential for additional development or future connection of the sewer system in the surrounding area, natural resources that might be negatively impacted by an on-site sewage disposal system(s).
  - Information on the adequacy of the unallocated capacity that would be left to the system.
  - Information on the degree to which any physical expansion of the sewer system proposed by the application represents the logical physical expansion of the sewer system within the Core.

By signature the Applicant(s)/Landowner(s) agree the information contained in this application is accurate to the best of their knowledge.

Yale Herman Trustee _10-06_

Date

For Office Use Only

✓ PRELIMINARY Approval ___ FINAL Approval

Conditions of Approvals (see attached)

i12.02
Handy 21 Pinecrest Drive
7200 gpd (35 E.U.)
Sewer Allocation Conditions of Approval

1) The applicant shall pay the Town service initiation fee in effect at the time of application to connect based on the wastewater values established in the Town’s Sewer Ordinance. No waiver of service initiation fees will be made by the Town with respect to the 72-unit proposed development.

2) Application for connection cannot be made until the municipal sewer line on Pinecrest Drive serving the property has been constructed and the Town has inspected/approved the new Pinecrest Drive sewer.

3) The applicant shall pay a proportionate share of the cost of constructing the Phase 1A and Phase 1B municipal sewer along Pinecrest Drive and portions of Ira Allen and Pioneer Street at an estimated share cost of 34% of the total project costs up to a maximum amount of $175,000.

4) The Town shall credit the applicant with the cost of construction of a portion of the Pinecrest sewer constructed by the applicant towards the applicant's total cost of the Pinecrest Drive sewer up to a credit limit of $175,000. Actual contract costs as approved by the Town shall be used to calculate any offsetting credit.

5) If the Town does not construct the sewer further to the east beyond the Handy property at 21 Pinecrest Drive within 15 years from approval of the allocation, the applicant shall be relieved of any further obligation to contribute his remaining share of the Pinecrest Drive sewer extension.

6) The conditions of approval are based on the applicant's request for 72 units. Any change from the 72 units as a result of actions by the developer, the Planning Commission or the Zoning Board shall require the applicant to reapply to the Selectboard for reconsideration of the sewer allocation conditions as set forth in items 1 through 5.

Approved by the Selectboard on 1 May 2006
Hi Sharon,

Thanks for the update. We are aware of that 2007 selectboard agreement for 72-unit allocation. In 2014 10 EUs (or 20 of the 72 units) were transferred to the building at 9 Joshua way to increase the size from 30-units to 50-units, attached is a copy of the memo from Dennis to Pat. The application for 21 Pinecrest will use 24 units of allocation leaving 28 units of allocation remaining for the future. There was a fee associated with the 2007 agreement to be used toward the future Pinecrest drive sewer project, the fee for the 20-units transferred in 2014 was paid.

Al and I met with Dennis and Aaron back in 2015 to discuss the pump station plan and our understanding was that the cost of the new pump station would be credited toward the remaining fee of $126,350.00. This pump station is essentially the same as the one we built at 12 Gardenside and I think that station cost apx. $135,000.

I hope this helps! Dennis or Aaron let me know if you have any questions because this project has a long history! Thanks,

Brian

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From: Sharon Kelley [mailto:skelley@ESSEX.ORG]
Sent: Thursday, January 02, 2020 9:09 AM
To: Brian Bertsch <bbertsch@omegavt.com>
Cc: asenecal@omegavt.com; Aaron Martin <amartin@ESSEX.ORG>; Sharon Kelley <skelley@ESSEX.ORG>; Dennis Lutz <dlutz@ESSEX.ORG>; Sharon Kelley <skelley@ESSEX.ORG>
Subject: 21 Pinecrest Dr

Brian,

FYI, I am still waiting on comments from Public Works on this application. It appears that PWs located an allocation agreement (with conditions) that was placed upon Gabe Handy at the time of Selectboard approval. Dennis & Aaron will be working on this matter. For now, your application remains incomplete until we get this issue resolved. I am hoping that it stay on the consent agenda, but that will be determined after I see if there are any issues on PW’s end. The deadline for Feb 13th is Jan 8th, so we may be able to keep the slot if all goes well.

Aaron will reach out to you after he and Dennis have discussed the application.

SK

Sharon L. Kelley, Zoning Administrator
Town of Essex
81 Main Street, Essex Jct., VT 05452
This message contains confidential information and is intended only for the individual(s) addressed in the message. If you aren't the named addressee, you should not disseminate, distribute, or copy this e-mail. If you aren't the intended recipient, you are notified that disclosing, distributing, or copying this e-mail is strictly prohibited.
Memorandum

TO: Patrick C. Scheidel, Town Manager and the Selectboard
FROM: Dennis Lutz, P.E., Public Works Director
DATE: 15 January 2014
SUBJECT: Wastewater Allocation Request for 10 E.U. (2000 gpd of wastewater flow) from LNP. Inc. (c/o Al Senecal)

ISSUE: The issue is whether or not the Selectboard will grant a sewer allocation request in the amount of 10 E.U. (2000 gallons per day) to LNP, Inc. (c/o Al Senecal) for the Pinecrest Congregate Housing Project, 5 Pinecrest Drive.

DISCUSSION: A similar request was made to the Selectboard and deliberated by the Selectboard both at the August 20, 2012 and the November 19, 2012 meetings. Copies of support material and minutes are attached. The issue was tabled on both occasions. One of the reasons for tabling was that the applicant did not concur with the staff position (supported by the Town Attorney) that he should pay the Town for a proportionate share of the Gabe Handy wastewater (cost) obligation that ran with acquisition of a portion of the Handy parcel.

The applicant has now indicated that he will contribute a maximum of $48,650 as the proportionate cost to construct municipal sewer along Pinecrest Drive. In the application letter supporting the request, it is stated that the other conditions of the Handy Agreement should remain in effect. The staff response is that we concur with respect to the remaining Handy allocation but not with respect to the 2000 gpd under this allocation. The rationale for this statement is as follows as pertains to 2000 gpd currently requested under the May 2006 agreement:

- Item 1 remains as stated in the agreement.
- Item 2 is not applicable to the 2000 gpd because the connection of this capacity will be made prior to any sewer on Pinecrest Drive.
- Item 3; the payment of the $48,650 represents the proportionate share of the $175,000 estimated cost for the 2000 gpd
- Item 4; the $48,650 is the credit the Town will accept towards the future Pinecrest sewer construction.
- Item 5; this item is applicable to the remaining amount of $175,000 less $48,650 or $126,350
- Item 6; remains as stated

Staff recommends that the $48,650 fee be paid not at time of application but prior to building occupancy. Staff has been directed by the Selectboard to re-look at the Pinecrest sewer project to determine if the sewer can be accomplished at less cost to the users than
originally estimated. It will take some time to perform this evaluation and answers are not likely until the congregate housing is well under construction and possibly not until construction of the facility has been completed.

In addition, it should be acknowledged that staff is of the opinion that there will be future changes both to the sewering of Pinecrest Drive and potentially to the development of the lands belonging currently to Handy that cannot be defined at this time. With this statement, there is very likely to be a renegotiation of the 6 May 2006 agreement with the Town on sewer allocation for the remaining Handy lands. In our opinion, the current request and method of handling the request is consistent with the 6 May 2006 agreement.

The Town has adequate reserve capacity available for the 2000 gallons per day of additional allocation.

RECOMMENDATION: It is recommended that the Selectboard grant LNP, Inc. a wastewater allocation in the amount of 10 EU (2000 gpd) for the Pinecrest Congregate Housing Project, 5 Pinecrest Drive in consideration of payment of $48,650 consistent with the wastewater allocation agreement dated 1 May 2006 between the Town of Essex and the DDH-GSH Trust (Handy) for 21 Pinecrest Drive as outlined in this memorandum dated 15 January 2014.
Pat Scheidel
Town Manager
Town of Essex
81 Main Street
Essex Jct., VT 05452

RE: Pinecrest Congregate Housing Complex – 5 Pinecrest Drive, Essex

Dear Mr. Scheidel:

We are writing on behalf of LNP, Inc., c/o Al Senecal, owner of a 5.0-acre parcel, located at 5 Pinecrest Drive, where the Planning Commission has approved a 30-unit and a 50-unit congregate housing building. The larger 50-unit building has been built and occupied. The current proposal is to enlarge the size of the smaller, approved but not built, 30-unit building to create a new 50-unit building.

On July 26, 2012 we submitted an application for an additional 9.5 E.U.s. of sewer allocation, a 25% bonus above what the parcel has previously been allocated. At that time the sewer increase request was to support an additional nineteen (19) units of congregate housing, allowing for a new 49-unit building.

Also proposed was a 1.3-acre boundary line adjustment with the adjacent parcel owned by DDH-GSH Trust to give LNP Inc. the needed density to build the nineteen (19) units of additional housing.

At the August 20, 2012 Selectboard meeting it was decided that because a boundary line adjustment was proposed that the additional sewer allocation should transfer with the land sale rather than the requested bonus from the Selectboard. The DDH-GSH property is controlled by Gabe Handy who has been previously been allocated 36 E.U.'s of sewer capacity subject to the conditions of a May 1, 2006 Selectboard approval.

As recommended by the Selectboard, our current request is for an additional 10.0 E.U.s of sewer allocation to be transferred with the proposed boundary line adjustment. A 1.95-acre boundary line adjustment has now been proposed to support twenty (20) additional congregate housing units to create a second 50-unit congregate housing building.

As part of the transfer of allocation LNP Inc. agrees to pay its proportionate share, 27.8% (10 E.U./36 E.U.), of the financial obligations required by the DDH-GSH conditional approval.
Pat Scheidel  
January 9, 2014  
Page 2

If approved LNP Inc. would contribute a maximum of $48,650, their proportionate share of the cost to construct Phase 1A and 1B of the Pinecrest Drive municipal sewer line extension. All other conditions of the DDH-GSH Trust sewer allocation approval would remain the same.

Attached please find an application requesting that an additional 10 E.U.’s of sewer allocation be transferred between the two properties; the total allocation on the LNP parcel would therefore increase to 50.4 equivalent user units and the total allocation on the DDH-GSH Trust property would decrease to 26 equivalent user units. If you have any questions or require any additional information, please do not hesitate to call.

Sincerely,

Brian J. Bertsch, P.E.

Enc.
Cc: Al Senecal, Gabe Handy  
Z:\2004\4060\4060-scheidelmemo.doc
TOWN OF ESSEX  Application Date__/__/__
Outside the Village of Essex Junction
81 Main Street, Essex Junction, VT 05452 (802) 878-1344 www.essex.org

WASTEWATER ALLOCATION PERMIT APPLICATION

Applicant Name: LNP, Inc. (c/o Al Senecal)  Property Street Address for Allocation: Pinecrest Drive
Project Name/Description: Pinecrest Congregate Housing
Parcel Account Number from tax maps (map-parcel-lot): 069-001-000
Mailing Address of Applicant: 31 Commerce Ave, South Burlington, VT 05403
Applicant Contacts: Work Phone (802) 662-0517  Cell Phone (802) 343-1579  e-mail: asenecal@omegavt.com

REQUIRED INFORMATION FOR ALL WASTEWATER ALLOCATION APPLICATIONS:

1) Requested volume of wastewater (in gallons per day and equivalent user units) 2,000 gpd 10.0 EU
(Note: 1 EU equals 200gpd)

2) Documentation/calculations on the basis of the wastewater flow estimate, including information on the characteristics of the wastewater in cases other than normal domestic wastewater.

3) Certification by a Vermont licensed civil or environmental PE for developments generating more than 1000 gpd of estimated wastewater flow.

4) Documentation on the number of EU's for the requested parcel as identified on the current Wastewater Allocation Map

5) Supporting documentation on Town or State project approval and date of approval

ADDITIONAL REQUIRED INFORMATION

Check One of the following:

X The permit application is for development on land area with designated allocation capacity equal to or less than 100% of the EU's identified for the parcel on the current Wastewater Allocation Map in categories C, D and E. No additional information is required.

_ The permit application is for development on land area with designated capacity over 100% but less than 125% of the EU's identified for the parcel on the current Wastewater Allocation Map in categories C, D and E. Additional requirements must be met per Section 10.18.060 of the Wastewater Allocation Ordinance.

_ The permit application is for appeal of Town Manager denial, b) the application is for more than 125% of the maximum number of EU's depicted on the current approved Wastewater Allocation Map, c) the application is for more than 125% of the previously approved sewer allocation for the property except in the case where the added E.U. is less than 1 or d) the allocation is for category B. Additional requirements must be met per Section 10.18.070 B of the Wastewater Allocation Ordinance.

By signature, the Applicant(s) agrees that the information contained in this application and any related attachments is accurate to the best of his/her/their knowledge.

[Signature]  Date

(continued on reverse)
Town Portion of Permit

Permit Number
Applicant
Project Description

Status of Project Approval:
____ Sketch Plan approved by the Planning Commission
____ Preliminary or Final Approval by the Planning Commission
____ Act 250 or ANR Protection Division Approval with Town certification of
capacity to serve
____ Zoning Administrator approval for minor projects using municipal sewer
____ Manager approval (if required)
____ Selectboard approval (if required)
____ Other (document)

Basis of Renewal Fee: see attached

Renewal Fee Schedule:
Year 1: Date of Wastewater Allocation Approval________  Allocated Capacity
Year 2: Renewal Date________
Year 3: Renewal Date________

Renewal fee must be paid before
the start of year 4:
Year 4: Renewal Date________  Fee Paid  Purchased Capacity  Total Purchased Capacity
Year 5: Renewal Date________  $________  _______ gpd  _______ gpd
Year 6: Renewal Date________  $________  _______ gpd  _______ gpd
Year 7: Renewal Date________  $________  _______ gpd  _______ gpd
Year 8: Renewal Date________  $________  _______ gpd  _______ gpd
Year 9: Renewal Date________  $________  _______ gpd  _______ gpd
Year 10: Renewal Date________  $________  _______ gpd  _______ gpd

Conditions of Approval (see attached documentation if relevant)

____ Approved
____ Denied

Town Manager or Designated Representative  Date
Handy 21 Pinecrest Drive
7200 gpd (35 E.U.)
Sewer Allocation Conditions of Approval

1) The applicant shall pay the Town service initiation fee in effect at the time of application to connect based on the wastewater values established in the Town's Sewer Ordinance. No waiver of service initiation fees will be made by the Town with respect to the 72-unit proposed development.

2) Application for connection cannot be made until the municipal sewer line on Pinecrest Drive serving the property has been constructed and the Town has inspected/approved the new Pinecrest Drive sewer.

3) The applicant shall pay a proportionate share of the cost of constructing the Phase 1A and Phase 1B municipal sewer along Pinecrest Drive and portions of Ira Allen and Pioneer Street at an estimated share cost of 34% of the total project costs up to a maximum amount of $175,000.

4) The Town shall credit the applicant with the cost of construction of a portion of the Pinecrest sewer constructed by the applicant towards the applicant's total cost of the Pinecrest Drive sewer up to a credit limit of $175,000. Actual contract costs as approved by the Town shall be used to calculate any offsetting credit.

5) If the Town does not construct the sewer further to the east beyond the Handy property at 21 Pinecrest Drive within 15 years from approval of the allocation, the applicant shall be relieved of any further obligation to contribute his remaining share of the Pinecrest Drive sewer extension.

6) The conditions of approval are based on the applicant's request for 72 units. Any change from the 72 units as a result of actions by the developer, the Planning Commission or the Zoning Board shall require the applicant to reapply to the Selectboard for reconsideration of the sewer allocation conditions as set forth in items 1 through 5.

Approved by the Selectboard on 1 May 2006
4 February 2013

Al Senecal
31 Commerce Drive
South Burlington, VT 05403

Al,

On Friday, you asked me to provide you with a summary of the issues as they pertain to the sewer allocation and requirements relative to your property at 5 Pinecrest Drive and Gabe Handy’s property at 21 Pinecrest Drive. I have already provided this information in a letter dated 12 April 2012, a copy of which is attached. I will try to expand this further.

Gabe Handy requested sewer allocation from the Selectboard over and above what his property at 21 Pinecrest Drive was allocated. The Selectboard approved this at their meeting on January 22, 2007. This approved increase in allocation had conditions attached to the approval as noted on the attachment to the permit (noted as having been approved on May 1, 2006). A copy of this document is attached.

The original plan of the Town was to obtain voter approval and construct the sewer on Pinecrest Drive from the manhole near Ray’s Seafood to the far end of Ira Allen Drive. Final design plans were completed and paid for by the Town. The Selectboard ultimately decided not to go to the voters with the project because of its high user cost. The Handy request for added sewer allocation occurred simultaneously with the planning for the municipal sewer extension. Paragraph #3 of the Handy conditions spelled out the proportionate share of the costs that Handy would have to pay towards the municipal project. It also provided for the situation if the Town project did not proceed and paragraph #4 covers that alternative. Finally, there was a time limit placed on Handy having to pay the $175,000 of 15 years (paragraph #5).

As you are aware, the Town Attorney recently provided the Selectboard with an opinion that the Handy obligation runs with the Handy land and any transfer of 21 Pinecrest Drive land would be bound by the same conditions.

From the Town’s perspective, we have a defined capital need in the approved Capital Plan to extend sewers to the small lots without sewer (see attached excerpt) but there was a cost associated with the capacity -- funds toward getting the line extended to Ira Allen Drive. The Selectboard’s position was that Handy got capacity which he did not have and the Town obtained funding to assist with the sewer line extension to Ira Allen Drive. Gabe accepted this premise.
In the 12 April letter, I provided a possible alternative for your consideration. It is a framework for a consultant to come up with an alternative design that does not go down Pinecrest but essentially goes “backdoor” through your property – either by gravity if possible or by force main. The cost of that route can be estimated by your engineer or Handy’s engineer. This would provide a less costly solution to the installation of sewer lines down Pinecrest Drive from 21 Pinecrest to Ray’s Seafood.

The concept is that some of these cost savings could be shared and the payment from Handy might be able to be reduced. This is an issue for the Selectboard to decide if such an offer were made. I am merely suggesting an option to consider.

The Selectboard still has a stated goal of getting sewers eventually to Ira Allen Drive. In my opinion, the Town’s best’s interests are to get a sewer manhole at the original planned invert elevation in front of 21 Pinecrest Drive, in the middle of the road and a reasonable length of sewer on Pinecrest Drive heading north so that the Town can at some future date extend the sewer to Ira Allen Drive.

As a Town staff member, I can suggest a “win-win” for both parties but it is not my position to determine the technical feasibility of the suggested route change nor is it my position to offer a position for renegotiating the Handy agreement. The Town’s best position is that which the Selectboard has already agreed to. However, there may be an equally good alternative that can be developed and presented to the Selectboard. I believe that positions should always remain open to negotiation. The worst case is that the Selectboard will not change their position. Unless some equivalent alternative that serves the interests of the Town is suggested, there is no alternative option to consider.

Quite frankly, the suggested alternative solution was made by Town staff to your engineer well before the letter of April 12, 2012. Nobody has picked up on this to the best of my knowledge. The Town staff has a responsibility to review projects as they are submitted. We have always gone well beyond our reviews to suggest potential alternatives when that action properly belongs to the consultants hired by the applicant.

Sincerely,

Dennis Lutz, P.E.
Public Works Director

CC: Patrick Scheidel
TOWN OF ESSEX
OUTSIDE THE VILLAGE OF ESSEX JUNCTION
Sewer Allocation Permit Application
81 Main St., Essex Jct., VT 05452 (802)878-1341 www.essex.org

Be completed by the applicant/landowner:

Applicant name: **DDH-GSH Trust**

Landowner name (if different than Applicant Name):

Property address: **21 Pinecrest Drive.**

Essex Junction, VT 05452

Parcel account no. (Map-Parcel-Lot): **2-069-007-000**
(Found in Town Assessor’s Office)

Address where any approval should be mailed: **66 College Parkway**

Colchester, VT 05446

Applicant phone: (work) **343-3292** (home) **(cell) 343-3292** (home) **(e-mail) 343-3292**

Complete the following:

Allocation requested is for **☐ PRELIMINARY or ☐ FINAL Approval**?

Date Sketch Plan Approval granted by the Planning Commission: **Dec 22, 2005**

☐ The permit application is for development on land area with designated allocation capacity equal to or less than 100% of the proved sewer allocation for the parcel. NO ADDITIONAL INFORMATION IS REQUIRED.

☐ The permit application is for development on land area with designated capacity over 100% but less than or equal to 125% of approved sewer allocation for the parcel. PROVIDE THE FOLLOWING ADDITIONAL INFORMATION:
  - Documentation on the adequacy of the existing sewer system to accommodate the added flow.
  - Information on how the use of the Town’s infrastructure supports the goals of the Town Plan.

☑ The permit application is for development on land area with designated capacity in excess of 125% of the approved sewer allocation for the parcel or for allocation on a parcel not granted capacity in the Study or included within a Category A development as in the latest Sewer Allocation Study. PROVIDE THE FOLLOWING ADDITIONAL INFORMATION:
  - Documentation on the adequacy of the existing sewer system to accommodate the added flow.
  - Information on how the use of the Town’s infrastructure supports the goals of the Town Plan.
  - Documentation on the need for connection to the sewer system with potential for additional development or future connection to the sewer system in the surrounding area, natural resources that might be negatively impacted by an on-site sewage disposal system(s), and the suitability of the site for on-site sewage disposal system(s).
  - Information on the adequacy of the unallocated capacity that would be left to the system.
  - Information on the degree to which any physical expansion of the sewer system proposed by the application represents a logical physical expansion of the sewer system within the Core.

By signature the Applicant(s)/Landowner(s) agree the information contained in this application is accurate to the best of their knowledge

[Signature]

Date

[Applicant Name]

For Office Use Only

☐ PRELIMINARY Approval ☐ FINAL Approval

[Signature]

Date

[Applicant Name]

[Conditions of Approval (see attached)]
Handy 21 Pinecrest Drive
7200 gpd (35 E.U.)
Sewer Allocation Conditions of Approval

1) The applicant shall pay the Town service initiation fee in effect at the time of application to connect based on the wastewater values established in the Town’s Sewer Ordinance. No waiver of service initiation fees will be made by the Town with respect to the 72-unit proposed development.

2) Application for connection cannot be made until the municipal sewer line on Pinecrest Drive serving the property has been constructed and the Town has inspected/approved the new Pinecrest Drive sewer.

3) The applicant shall pay a proportionate share of the cost of constructing the Phase 1A and Phase 1B municipal sewer along Pinecrest Drive and portions of Ira Allen and Pioneer Street at an estimated share cost of 34% of the total project costs up to a maximum amount of $175,000.

4) The Town shall credit the applicant with the cost of construction of a portion of the Pinecrest sewer constructed by the applicant towards the applicant’s total cost of the Pinecrest Drive sewer up to a credit limit of $175,000. Actual contract costs as approved by the Town shall be used to calculate any offsetting credit.

5) If the Town does not construct the sewer further to the east beyond the Handy property at 21 Pinecrest Drive within 15 years from approval of the allocation, the applicant shall be relieved of any further obligation to contribute his remaining share of the Pinecrest Drive sewer extension.

6) The conditions of approval are based on the applicant’s request for 72 units. Any change from the 72 units as a result of actions by the developer, the Planning Commission or the Zoning Board shall require the applicant to reapply to the Selectboard for reconsideration of the sewer allocation conditions as set forth in items 1 through 5.

Approved by the Selectboard on 1 May 2006
12 April 2012

Al Senecal
Omega Electric
25 Omega Drive
Williston, Vermont 05495

Al,

Included with this letter is the sewer allocation permit issued to Gabe Handy in 2007. According to the conditions, Gabe would not be free of the financial obligation until 15 years from 2007 or 2022. That is a long way off.

It is clear that the Selectboard intended Gabe to contribute $175,000 towards the sewer system, with a credit against this amount if he built the first segment. If the sewer is rerouted "backdoor" to avoid Pinecrest, I still do not see the $175,000 going away in its entirety. The most rationale approach would be to provide an estimate for the "backdoor" route that is acceptable to the Town and use this calculation as an offset to part of the $175,000. It will not cost near the $175,000 to use the alternate route and so I believe there will still be a sizeable payment needed to the Town to make the alternative arrangement happen.

My quick guess is about 1100 feet of sewer will be needed at a cost of $55 to $60 per foot or somewhere around $60,000 to maybe as high as $75,000. That would still leave a payment of about $100,000.

The Handy wastewater allocation took a long time to resolve. Initially, the Selectboard would not consider it. The central issue to the Town was not providing additional development capability but combining that capability with the Town’s need to get sewer to the area of Ira Allen Street. The cost sharing provision was the most important element and in my opinion that is not going to go away.

I would be willing to support the alternative route and not require added payment for the future manhole in Pinecrest. It would be necessary to bring the Handy sewer to near the edge of the right of way on Pinecrest and we would want it to end in a manhole with a stub. The location would be such that the sewer construction would not impact on the
utilities on Pinecrest. Also, the sewer line would have to deeded to the Town in an easement.

At this point, I am not going to comment on the estimate for the manhole because I believe the costs in the issued sewer allocation permit trumps the payment of only the manhole cost.

Call me if you have any questions.

Dennis Lutz
Public Works Director/Town Engineer
that he also looked on the Town website, saw the opening on the EC and information on the LED Streetlight project, which the VEC were in the process of doing as well. He thought it was interesting that the Town and VEC seemed to be doing the same things along the same time.

Mr. Luck asked Mr. Pack about what he would like to see happen in the community related to energy and conservation. Mr. Pack explained that his intent was more to voice his opinion on the ideas that the Town had and to express whether those ideas were feasible. He stated that he was not a “yes” guy and was an honest guy. He also was a Veteran of the Iraq war during which he was in communications and learned how to be straight, honest and prompt about issues. Mr. Levy explained the decision-making process and that Mr. Scheidel would contact him in the morning about the SB’s decision.

Wastewater Allocation Issue/Pinecrest-Trevor Lashua

Mr. Lutz introduced the issue of whether or not to grant a new (revised) wastewater allocation for a congregate housing project on Pinecrest Drive proposed by Mr. Al Senecal. Mr. Lutz explained that there were two requests in August that Mr. Senecal made. The first request, which was additional allocation for 202 Colchester Road, was approved by the SB on condition of a signed agreement between the Town and A and C Realty. The second request, which was for additional allocation for Pinecrest Congregate Housing Complex, was tabled by the SB until it received input from the Town Attorney, who was available for questions that night.

The question from the SB was related to a pending agreement between one party and another party over the transfer of land and wastewater allocation. He explained that Mr. Senecal had 15 remaining equivalent units (EU), which was enough to build a 30-unit development today. However, Mr. Senecal wants to obtain a parcel of land from an adjacent neighbor, Mr. Gabe Handy, which would allow him to request an additional allocation of 9.5 EU and build a total of 49 units. However, the parcel of land has some conditions tied to the land. The allocation of EU as well as an obligation to the extension of sewer in that area is part of an agreement made by Mr. Handy and the Town. The question from the SB was whether the sewer allocation issues from Mr. Handy’s property transfer over to the parcel of land that Mr. Senecal wants to purchase from Mr. Handy. Mr. Lutz quoted Mr. Ellis’ opinion on this matter, which, in his memorandum states “in the case of a subdivision, ownership of the wastewater allocation transfers with ownership of the lot, and the new owner is bound to comply with all requirements applicable to that lot.” Mr. Lutz explained that in this case, the boundary adjustment between the two parcels constitutes a “subdivision,” and therefore, the responsibilities of the allocation for that land transfer to the new owner. Mr. Lutz’ recommendation for this issue was for the SB to either table the wastewater allocation request or deny it without prejudice pending further definition from the applicant on how the wastewater allocation obligations associated with the boundary parcel adjustment will be satisfied.

Mr. Levy commented that when the members discussed this issue last, it wasn’t clear whether the EU went with the land and now the SB had that information.

Mr. Senecal asked whether there was a precedent of someone who bought a parcel of land and had to pay for the sewer allocation. He also asked who the $26,400 check goes to, Mr. Handy or the Town? Mr. Lutz stated that he has been with the Town since the start of the system and was not
aware of any situation like this one. He and Mr. Senecal further deliberated on this issue. Mr.
Senecal stated that he has never heard of somebody buying a piece of land and then having the
Town require the applicant to buy the allocation. Mr. Senecal assumed that the $26,400 fee
represents the percentage of land that he was buying and the percentage of total sewer allocation,
but asked for clarification. Mr. Lutz stated that this was the first case that he is aware of that a
particular party, Mr. Gabe Handy, was granted a permit so that when he wanted to build units, there
were conditions associated with it. Mr. Lutz explained that the only allocation Mr. Handy has is the
permit that was issued by the Town for 36 EU. He added that this is the only case he knows that
someone has an actual permit issued by the Town which now wants to subdivide. Mr. Senecal felt
Mr. Handy did not want to subdivide, but to sell him a sliver of land. Mr. Ellis confirmed for Mr.
Lutz and Mr. Senecal that by creating that sliver of land, it creates a boundary adjustment.

With regards to the $26,400, Mr. Lutz stated that there were a bunch of ways to calculate that cost
and that the Town did not calculate it on the basis of land. Mr. Lutz explained his logic with
determining the benefit in terms of capacity when purchasing that parcel of land. Mr. Lutz agreed
with Mr. Senecal that Mr. Handy could go before the SB and request 9.5 EU, and Mr. Senecal
added, and he wouldn't have to pay anybody for those EU. Mr. Lutz explained the intent of
following the ordinance which says that the capacity goes with the land. Mr. Senecal asked, if he
bought 1.3 acres of land from another neighbor who didn't have any sewer allocation, would that
mean he could make a request for 9.5 EU without having to pay Mr. Handy? Mr. Lutz replied,
hypothetically, yes, because Mr. Handy has a permit with allocation issued on that land and an
obligation that runs with the land. Without that, this issue would be moot. He and Mr. Senecal
further deliberated on Mr. Senecal's options. Mr. Lutz saw two options, which were to either build
the 30 units today or pay the fee and Mr. Handy gives up capacity. Otherwise, the SB could table
the issue to see if there is a third option to be worked out.

Mr. Ellis reminded the Board that it has the authority to grant additional EU from the reserves. The
original question was “does the obligation run with the land or with the individual?” Mr. Ellis
stated that the obligation is to 21 Pinecrest Drive, and the subdivision of 1.3 acres would carry a
pro-rata obligation of what was assigned to 21 Pinecrest Drive. Mr. Lutz confirmed for Mr. Levy
that the Town calculated the percentage of the EU. However, there is nothing in the ordinance that
says the calculation has to be done as a percentage of EU. It could be done as Mr. Ellis suggested,
which is a percentage of the acreage, which was a lower number. Mr. Levy asked, if it was all
normalized anyways, shouldn't it come up to the same number? Mr. Lutz replied, no, it would not
be the same number because Mr. Handy's parcel is significantly larger. He added that the reason
there were conditions attached to that land was because in 2006, Mr. Handy wanted more capacity,
and the Town was willing to provide that capacity in return for funds to expand needed sewer in
that area.

Mr. Senecal was still confused about why the Town could say that he has to buy sewer allocation if
he buys the land because if it had been two years ago, he would have had enough land to make a
request and it would not have included any deal with Mr. Handy or a purchase of land. He felt that
if this issue wasn’t known by everybody, the only decision would be whether it was enough land
for the additional EU. Mr. Lutz replied that Mr. Senecal would be correct if it was pre-2006. Mr.
Senecal asked why this issue had anything to do with the agreement between the Town and Mr.
Handy because he was buying a piece of land with Mr. Handy, not the agreement. He and Mr. Lutz
ESSEX SELECTBOARD

November 19, 2012

Mr. Senecal expressed frustration with this situation as he felt that he was getting the “short end of the stick.” Mr. Luck stated that Mr. Senecal was not buying the sewer allocation, but that there were conditions associated with the property and just as if there were tax issues or other issues he assumed that Mr. Senecal understood that when he buys a piece of land, he gets whatever previous conditions were made on that property.

Mr. Senecal asked for clarification as to whether he could buy the land today and then return to the SB in two years when there is a different SB and ask for sewer allocation to build an additional 20 units. Mr. Lutz didn’t know what a different SB would have to do with the issue because the obligation travels with the land. Mr. Lutz confirmed for Mr. Senecal that the formula for the cost associated with the allocation approval was based on the EU and not the acreage. Mr. Lutz confirmed for Mr. Senecal that if he purchased the land from some other abutter, he could request additional EU provided the abutting property owner has the EU to give up.

Mr. Levy asked Mr. Lutz whether the SB should table this issue, have Mr. Senecal go with the 30 units or come up with a new calculation to determine the cost whether it is based on the land or EU. Mr. Lutz explained that if the applicant does not expand the parcel by acquiring the land, then his sewer allocation is as previously approved. Mr. Lutz provided two options in his recommendation. The first, per ordinance, is that if the applicant decides to add the boundary adjustment, then the requested allocation could be approved provided that the applicant pays a portion of the cost associated with the conditions of the Handy Trust based on a proportion of land acquisition and a cost of $26,400. The second is to table the issue, which puts the “ball back into the applicant’s court.”

Ms. Wrenner commented that with all real estate, time is everything, and if Mr. Senecal had thought of doing the changes years ago, he would have been scott-free, but timing is everything. In dealing with the here and now, she would be fine with tabling it at this point. Mr. Rogerson and Mr. Luck were fine with tabling the issue as well. Mr. Senecal asked whether it was possible to get an approval based on a new calculation because it might go from $26,400 to $14,000. Mr. Levy replied that they didn’t know what that number would be. He suggested that there be an agreement to approve the issue with a condition that Mr. Senecal pay the amount that is calculated whether by EU or land. Mr. Senecal agreed with that suggestion and felt that the worst case scenario was that he only builds 30 units because if the additional allocation gets approved, it did not mean he had to build the additional units. However, if the issue gets tabled, then it drags on. Mr. Lutz confirmed for Mr. Levy that the number of additional units was 19. Mr. Lutz added that if the cost was recalculated on the basis of land, it would not exceed $26,400, so he suggested that the motion include “not to exceed $26,400.”

Mr. Luck was not sure he would be in favor of recalculating the cost because the conditions are based on the number of EU that have been a portion allocated to the property. Therefore, it seems relevant to him that if Mr. Handy was going to give up the number of EU, that Mr. Senecal pay based on a percentage of EU, not on part of the property. Otherwise, the conditions had no “teeth” and didn’t mean anything if the SB let Mr. Handy dice that property up. The original agreement was for 36 EU and the condition is that Mr. Handy pay to connect to sewer. If Mr. Handy wants to give the EU away, then each EU has a 1/35 portion of the cost of the sewer. Mr. Levy asked Mr. Lutz what he thought was the rationale for the calculation based on land. Mr. Lutz hadn’t thought

Approved December 3, 2012

5
about the cost based on land for tonight’s discussion. His original logic was, as Mr. Luck suggested, that the applicant was deriving a certain benefit of EU from his neighbor that goes along with the transfer of land.

Mr. Rogerson understood that the agreement between the Town and Mr. Handy was not based on the land, but what he was going to do with the land and how much capacity he needed, and Mr. Lutz agreed. Mr. Rogerson was still confused as to why the EU had to go with the land because the EU didn’t cost anything and didn’t add any value to the land, unlike a tax lien, which is a liability, or a permit that an owner has to pay for. The allocation of EU was something an applicant could come in and get for free if the applicant has an approved application for a building. Mr. Rogerson asked why Mr. Senecal couldn’t buy the land, not get the EU and then come back to the SB for the additional 9.5 EU at no cost? Mr. Ellis stated that the SB has the authority to grant additional EU out of the reserve at any time. The question that was posed to him was whether or not the obligations which run with 21 Pinecrest Drive transfer to a portion of the parcel. Mr. Handy is transferring 1/3 acres out of a 13-acre parcel, and Mr. Senecal should be responsible for 10% of the obligation attached to that lot. He stated that the ordinance talks about allocations going with parcels, not with individuals. More specifically in the ordinance, Mr. Ellis found it persuasive, if not determinate, that this is a boundary issue or subdivision, and in the case of a subdivision, the allocation goes to the new owner, along with the obligations. He also felt it was in the SB’s jurisdiction to say that all the EU stay with 21 Pinecrest Drive. If Mr. Senecal buys 1.3 acres, he could request 9.5 EU, which would include a 10% obligation that runs with 21 Pinecrest Drive, which was to extend the sewer at a cost of $175,000. Mr. Lutz clarified for Mr. Senecal that even if the Town does not extend the sewer, Mr. Handy would be responsible for extending the sewer. In the event that the Town extends the sewer of its own volition, Mr. Handy would be responsible for paying $175,000 per the agreement. Mr. Lutz confirmed for Mr. Senecal that Mr. Handy either has to construct the sewer or pay $175,000 to the Town within the time period of 15 years. If Mr. Handy does not build his project within 15 years and the Town does not extend the sewer, the condition expires. Mr. Lutz felt that this issue was addressed very clearly in the ordinance, and he quoted from Mr. Ellis’ memorandum regarding section 10.18.120 J. of the ordinance.

Mr. Senecal pointed out that the money should not go to Mr. Handy, it should go to the obligation that Mr. Handy has with the Town. Mr. Levy asked Mr. Lutz where the check would go. Ms. Wrenner felt that it should go to the Water/Sewer Department, which she thought was a different cost center than the Town of Essex. Mr. Lutz stated that the original intent for the money from Mr. Handy was to provide funds to the Town so it could ultimately provide sewer capacity in that area. His best recommendation would be to take that money and put it into a sinking fund for that specific project at which time that project moves forward. Mr. Lutz confirmed for Mr. Levy that he still recommended basing the calculation on the EU since it was the clearest way to him, even though it could be based on the acreage.

Mr. Rogerson understood the EU transfer with the land but wanted to know if Mr. Senecal pays the EU or takes over the obligation. Mr. Rogerson suggested a scenario where Mr. Senecal does not pay for the EU, but has the obligation that Mr. Handy had with the equivalent EU so that if Mr. Senecal develops his land, he has to pay the cost of the sewer expansion. In that scenario, Mr. Senecal does not pay until the land is developed and if a 15 year time frame goes by, then just like Mr. Handy, he loses the EU. Mr. Levy thought that with Mr. Rogerson’s scenario, it would be the
same amount of payment. Mr. Rogerson disagreed because Mr. Senecal would be paying after the fact and would have a project that he could leverage the payment against, which from a developer’s point of view would be a better deal than paying up front. Mr. Rogerson expressed that right now, based on the original discussion, Mr. Senecal is paying $26,400 for nothing. Mr. Rogerson added that, as was discussed earlier, an applicant does not have to pay for EU so to Mr. Rogerson, the $26,400 was a bogus number. He felt that the value was in the obligation and when Mr. Senecal buys the land, he gets the EU, but has to conform to the obligation with those equivalent EU. Mr. Levy added, to the tune of the $26,400. Mr. Rogerson replied, whatever the value is, and he understood that the formula was a moot point.

With regards to the formula and the 9.5 EU, Mr. Senecal was willing to offer $10,000 as a donation to the sewer department to address this issue. Mr. Senecal felt confident he could negotiate the land with Mr. Handy, but was not sure about the EU. Mr. Levy stated that the EU go with the land. Mr. Lutz thought Mr. Senecal’s offer would be a simple solution, but reminded the members that the Town is suppose to uphold the ordinance. Mr. Levy felt that the SB could agree that the ordinance needs to be followed, but wondered if the $26,400 was not the right number. Mr. Lutz replied that it could be the right number as there is no magic formula in the ordinance to say how to calculate it. Mr. Levy thought it made sense to do it based on EU since the ordinance refers to the transfer of EU. Mr. Senecal thought it made just as much sense to do it by the percentage of land, which would be 1.3 acres out of 13 acres or 1 EU. Mr. Lutz clarified for Mr. Levy that there were 9.5 EU being transferred because that is the additional EU Mr. Senecal needs to construct the 49 units. Mr. Lutz explained for Mr. Levy that the calculation could be based on land, which might carry over 3 EU and then Mr. Senecal would have to return to the SB to request additional EU on his own parcel. Mr. Lutz believed Mr. Levy was possibly correct in assuming that if the SB approved a motion that included a condition, “not to exceed $26,400,” and then the Town determined the right calculations, then this issue could be closed tonight.

Mr. Scheidel wondered, if the SB decides to base the calculation on EU and not the land for Mr. Senecal, would it be the same for Mr. Handy should he decide to develop his land? Mr. Lutz asked for clarification, and Mr. Scheidel explained that he was referring to Mr. Rogerson’s point about the definition in the ordinance, what goes with the land, and the value of the cost of the sewer, whether it is based on today’s cost or future costs. Mr. Scheidel asked, if Mr. Handy does not develop his project, and Mr. Senecal agrees to pay $26,400, what does the Town do with the $26,400? Mr. Lutz replied that it is a complicated issue, but that ultimately, he saw that the Town has the need to extend sewer in that area, and it would ultimately come to some Board in the future. Similar to the police facility, there was some money set aside, but not enough money to build it.

Ms. Wrenner commented that it was great to have congregate housing coming to Essex, and she applauded the effort. If the SB did Mr. Senecal a favor and decreased the cost of the obligation however the members decide to recalculate it, someone else is picking up that slack to pay more to construct the sewer that is desperately needed. That is the greater good of creating sewer for that neighborhood, and she didn’t want to lose sight of the fact that helping one person could harm many people. She also knew that from the six years that she has sat on this Board she didn’t see Mr. Lutz throwing numbers around without backing. Therefore, if he came up with $26,400, there had to be a reason he came up with that, and she didn’t think that the SB should be questioning that number and asking him to go back and recalculate it five other ways when he obviously had a
reason and followed the ordinance. She was fine with the $26,400 number going forward with this
issue. Mr. Luck could support Ms. Wrenner’s opinion, and Mr. Senecal pointed out that Mr. Lutz
was clear that he was not 100% sure that there may be another way to calculate the cost. With
regards to the good of the community, Mr. Senecal reminded the members that the additional 20
units would create large revenues for the Town, much more than the one-time payment of $26,400.

Mr. Levy asked the members if there was a motion. Mr. Luck did not know what the motion would
be because there were too many contingencies. Mr. Lutz stated that it was important to get this
issue right and recommended that the SB table this issue again. He added that Mr. Senecal heard the
discussion and could determine how he wants to proceed with the issue. Mr. Lutz explained that he
could do some alternative calculations, but would not make a change to his recommendation. He
pointed out that Mr. Senecal has to discuss this issue with Mr. Handy because of the requirement in
the ordinance with regards to the transfer of EU, and Mr. Lutz didn’t think that the SB needed to be
placed in the middle of those kinds of discussions between the seller and the buyer.

IRENE WRENNER MOVED AND DAVE ROGERSON SECONDED A MOTION TO
TABLE THE WASTEWATER ALLOCATION REQUEST. THE MOTION PASSED 4-0.

Mr. Scheidel thought that Mr. Rogerson had some concerns that remained unanswered. Mr.
Rogerson explained that he understood that the EU would transfer with the land, but he didn’t see
the value of the EU since the Town gave them out for free. The EU do not have value until the
developer develops a property. He stated that there is an obligation that the original landowner had
when he got approval for those EU and that obligation also transfers with the EU to the new
landowner. Mr. Senecal is buying that obligation when he buys the land, and it has no value until he
develops the property, after which Mr. Senecal is obligated to follow the rule that was attached to
those EU. Mr. Rogerson would not approve a formula as the right approach because he thought that
the Town needed to think long-term since this is the first time for this issue and was guaranteed not
to be the last. Therefore, he stated that whatever the SB did tonight or whenever, it would set a
precedent. He appreciated the $10,000 offer, but that would not have been a game that he would
want to play because then every developer is going to make an offer and the Town would start
negotiating and have 14 different rules, which was not the right thing for the Town to do.

Mr. Lutz and Mr. Rogerson further deliberated on this issue. Mr. Rogerson felt that the subdivision
regulations have a requirement that is clear for this issue and was a rule that applies to everybody.
To him, it was fair unless the regulations change. He agrees with Ms. Wrenner and doesn’t question
the formula, but he didn’t think it was the right process to deal with this issue. Mr. Senecal stated
that in order for him to work with Mr. Handy, he needed to know the formula. He didn’t want to
strap a $175,000 liability to himself not knowing the formula. Mr. Rogerson argued that Mr.
Senecal knew the agreement that was made when Mr. Handy was awarded the EU and agreed to be
liable for the cost of developing that sewer. Mr. Rogerson felt that Mr. Senecal and Mr. Handy have
to figure out with Mr. Handy who is going to develop, which is a deal between Mr. Senecal and Mr.
Handy, not with Mr. Lutz or the Town and Mr. Senecal. Mr. Senecal was still not sure what he was
responsible for. He asked, when he buys the 1.3 acres of Mr. Handy’s land, is he responsible for
10% or 25% of the $175,000 obligation, and is it a percentage of the EU, a percentage of the
acreage or a percentage of the $175,000? Mr. Levy replied that the issue was tabled, and the SB had
to move on to the next item on the Agenda.
Memorandum

TO: Patrick C. Scheidel, Town Manager and the Selectboard
FROM: Dennis Lutz, P.E., Public Works Director/Town Engineer
DATE: 15 November 2012
SUBJECT: Senecal Requests for Sewer Allocation (INFORMATION)

Al Senecal approached the Selectboard on August 10, 2012 with two requests for sewer allocation and the current status is as follows:

1)  A & C Realty, LLC request for sewer allocation at 202 Colchester Road

The Selectboard approved the request with 3 conditions, one being that “… All proportional costs associated with improvements required by the Village from the increase inflows from these two projects (Senecal industrial site off VT2A being the other site) be the responsibility of the developer.” It was understood that this should be in the form of a written agreement.

Immediately following this meeting on August 22nd, a letter was sent to Al Senecal. For some reason (conflict in addresses), it was returned to the Town. It was re-sent during September. On October 10th, the applicant’s attorney forwarded a draft agreement for review. It was forwarded to the Town Attorney with requested changes. This information was sent back to the applicant’s attorney during the week of November 12th. The requested changes were made by the applicant’s attorney and a copy of the final agreement is provided herewith. Once the agreement is signed by both parties, a preliminary sewer allocation letter will be sent to the applicant.

This permit request is being handled administratively and no further Selectboard action is required.

2)  Sewer Allocation for the Pinecrest Housing Complex

The Selectboard tabled action on this item pending input on the issues from the Town Attorney. An e-mail was sent from Public Works to the Town Attorney on August 22nd and follow-up requests were made. Due to other commitments (negotiations on the Police facility land), answers to the questions were only available this week. A copy of the Town Attorney’s opinion is attached.

The position of the staff was outlined in the 3rd paragraph on page 2 of the memorandum dated 1 August 2012, a copy of which is attached. This position coincides with the opinion of the Town Attorney.

At this point, the recommendation is that the Selectboard make a finding that:
1) If the applicant does not expand the parcel by acquiring the land from Gabe Handy, the sewer allocation is as previously approved at 30 EU.

2) If the applicant decides to act on the boundary adjustment and request a total of 39.5 EU (i.e., 9.5 E.U more than previously approved), the allocation could be approved providing the applicant pays a portion of the costs associated with the conditions of the GGH-GSH trust based on the proportion of land acquisition and a cost of $26,400. In addition, the E.U. associated with the transfer of 9.5 E.U. would be deducted from the previously approved 36 E.U. now dedicated to the GGH-GSH Trust without prejudice. In effect, the remaining density of the GGH-GSH parcel may allow for a higher level of E.U. than the original requested 36 and the owner of the GGH-GSH parcel could request that an additional 9.5 E.U be provided to the remaining lands of the GGH-GSH parcel.
REQUIRED BY THE VILLAGE FROM THE INCREASE IN FLOWS FROM
THESE TWO PROJECTS BE THE RESPONSIBILITY OF THE DEVELOPER;

B) THE SANITARY SEWER FORCE MAIN FROM THE INDUSTRIAL PARK
SUBDIVISION SHALL HAVE A MINIMUM DIAMETER OF 6 INCHES; AND

C) THE LOCATION OF THE 6-INCH FORCE MAIN SERVING THE TWO
PROPOSED PROJECTS ALONG COLCHESTER ROAD (VT2A) AND PINECREST
DRIVE SHALL NOT CONFLICT WITH NOR IMPACT THE DESIGNED AND
PROPOSED TOWN PATH, WALK AND DRAINAGE PROJECT ALONG THIS
ROUTE.

THE MOTION PASSED 5-0.

Wastewater Allocation Request from Al Senecal re Pinecrest Congregate Housing Complex-
Dennis Lutz

Mr. O'Leary introduced the issue of whether or not to grant a new (revised) Wastewater Allocation
for the referenced project per the request from Mr. Al Senecal. Mr. O'Leary provided background
to the issue and explained that Mr. Senecal received approval for 80 units for the Pinecrest
Congregate Housing Complex. However, the wastewater allocation request for this project is
different in many respects from other wastewater allocation requests given the past history of the
project and a necessary boundary line adjustment.

The previous owners of the Senecal parcel were the Cavanaugh's, who had an agreement with the
Town to exchange sewer capacity for land. The Cavanaughs received 4,000 gpd of sewer
allocation, which is enough for Mr. Senecal’s 80 units. However, Mr. Gabe Handy, Mr. Senecal's
neighbor, has agreed with Mr. Senecal to a boundary line adjustment and to sell Mr. Senecal an
additional 1.3 acres of land so he can build his originally desired 100 units. At the same time, Mr.
Handy has a site for a 24-unit building with 72 gpd of allocation that sits idle. Mr. Senecal wants to
buy the 1.3 acres, but not take any of the 72 gpd of sewer allocation. Mr. Lutz stated that there was
9.5 equivalent units (EU) or 1,900 gpd that Mr. Senecal was requesting, and that the sewer
allocation travels with Mr. Handy’s land. Therefore, he believed that Mr. Senecal should pay a
proportion of the sewer allocation. Mr. Senecal disagrees because for the additional building, sewer
already exists, and he wants the 9.5 EU to come out of the reserve. Mr. Handy’s allocation was
based on a larger agreement with the current landowner, so the question is if Mr. Senecal buys a
portion of that land does he accept the responsibility for that proportion of the particulars of the
arrangement?

Mr. Senecal stated that it took him a couple of years to negotiate the 1.3 acres with Mr. Handy, and
therefore, he was not going to start negotiating the allocation. If the allocation is denied, then he
would build only 30 units, which he thought was a shame because it was originally designed for
100 units.

Mr. Lutz explained that the issue was that the land being purchased by Mr. Senecal has an
obligation assigned to that land with respect to the wastewater capacity. He explained the tradeoff

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of that agreement with Mr. Handy who needed capacity for a parcel of land and agreed to pay a sum
of money to the Town to extend the sewer line a set distance up Pinecrest Drive. Mr. Lutz felt that
the agreement is tied to the land, so that if Mr. Senecal buys the land from Mr. Handy, there should
be some financial obligation to help fund the sewer expansion, which was estimated at a cost of
$46,000.

Mr. Senecal disagreed and argued that if he was approved for the 50 units, the Town would receive
$32,000 on the 20 additional units so he felt that it made economic sense for the Town.
Additionally, there would be no impact to the Town because the infrastructure is all there, which
seems like good business.

Mr. Levy asked if the members could get an answer as to whether the agreement was tied to the 1.3
acres of land. Ms. Myers asked who makes that decision. Mr. Lutz and Mr. Scheidel suggested
referring to the Town Attorney. Ms. Myers suggested tabling the discussion.

Ms. Wrenner raised another question with regards to the agreement from 1987 which states, “The
Town of Essex shall provide an allocation of 8,000 gallons of sewage capacity for commercial or
industrial purposes to the Cavanaughs for use on one or both of the Susie Wilson parcels, number 3
through 11 and number 6A.” She asked how that got converted into houses and congregate housing
and whether that was considered commercial because it seemed like residential to her.

Mr. Lutz explained some of the possibilities, if Mr. Handy was interested, but stated that the issue
for this request was an agreement between the SB and Mr. Handy to obtain sewer capacity in
exchange for help to defray some of the cost of extending sewer. Ms. Myers, with regards to the
8,000 gpd to the Cavanaughs, asked whether that capacity was still there. Mr. Lutz replied, no, the
sewer capacity is split between the land behind Lowe’s and the Rite Aid property and congregate
housing behind Rite Aid. Ms. Myers wondered if the congregate housing was considered
commercial. Mr. O’Leary stated that he did not remember seeing the clause that Ms. Wrenner
pointed out, and it never came up in the zoning and planning discussions.

Ms. Wrenner asked for clarification on the name of the Trust because there were two different
acronyms for the trust in the paperwork. One was “DDH-GSH Trust” and the other “GGH-GSH
Trust”. Mr. O’Leary stated that it was the neighbor’s trust, but he was not sure about the letter
designation. Members and staff deliberated over this issue. Ms. Wrenner was just curious and did
not think it should hold anything up.

Mr. Luck asked Mr. Lutz if he knew of any plan for the Handy property to continue building the
rest of the units. Mr. Lutz replied that so far nothing has been built, but Mr. Handy had approval for
24 units. Mr. Luck asked, and building the 24 units would trigger the agreement. Mr. Lutz recalled
that Mr. Handy needed to use that capacity by 2022 or 2023 or it would return to the reserve
capacity. Mr. Rogerson recalled that Mr. Handy’s issue was having access through Mr. Senecal’s
property. Mr. Senecal commented that Mr. Handy did not need two means of egress with 24 units,
but if Mr. Handy built 72 units, then he would need to connect to his property.

Mr. Senecal confirmed for Ms. Myers that he was approved for 30 units and that he was requesting
to add 20 units. He explained to Ms. Myers that he had a very strong verbal agreement with Mr.

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was necessary to keep in mind that, demographically, Vermont is aging quite rapidly and with
overall health issues, such as obesity, the need for ADA services is increasing. She added that
anything the communities could do with building and repairing roads to make them accessible for
buses at bus stops would help to make it easier for everybody to get around and to use public
transit.

Mr. Levy commented that it is unique that Essex has a Senior Bus and imagined that it took away
some of the load for the CCTA and ADA ridership. He would like the CCTA to consider
acknowledging that for Essex, or other communities that have a senior busing service, and give
those communities a proportional reduction or credit in the assessment costs of supporting ADA.
Mr. Frank agreed that the Senior Bus was a great service provided by Essex and explained that
other communities offered programs through the Vermont Elders and Disabilities Program (VEDP)
and were paying operating costs to the CCTA for that program. Mr. Levy wanted a reduction in
assessment since Essex provided the Senior Bus service. Ms. Curry clarified that other communities
were paying the CCTA for the VEDP through a matching grant, so they were doing something
similar to Essex, but in a different way. If Essex received a credit for its Senior Bus, it would mean
transferring that cost burden to the other communities. The CCTA also doesn’t have an assessment
formula for that credit as well. Mr. Levy wondered if the assessment could be adjusted accordingly,
depending on what is paid into the CCTA, so that no community is paying more than it should to
support the system. Mr. Scheidel asked if the SSTA riders paid a fee of $2.50 as well. Ms. Curry
explained that the VEDP riders do not pay a fare because it’s a Federally-funded program, but that
there is a suggested donation.

Mr. Frank confirmed for Ms. Myers that the CCTA would like a decision from the SB in time for
its budget deliberations in December. Ms. Myers stated that the members would consider this issue.

Front Porch Forum-Michael Wood-Lewis

Mr. Lashua introduced Mr. Michael Wood-Lewis from Front Porch Forum (FPF) and introduced
the issue of the proposed charge ($1,920 for the year) for the Town’s continued access to and use of
FPF. He explained that if the Town agrees to promote FPF, that rate is reduced to $1,200 per year
or $120 a month. Following a discussion with Mr. Wood-Lewis, the Town could continue its usage
of FPF for the remainder of FYE13 for $600 with the caveat that the Town assist with promotion of
FPF. The expectation would be that the Town would then budget for the full subscription amount
for FYE14, and pay that amount (either $1,920 or $1,200) if approved by the voters.

Ms. Myers reminded Mr. Rogerson that at the last SB meeting, the SB tabled this discussion until it
received more information. Mr. Levy stated that he was not aware of a threshold for FPF that
determined when you pay into it and wondered if there was a second threshold in the future that
would be another fee. Mr. Wood-Lewis said there was currently not a second threshold. He
apologized for not addressing the SB earlier in the process. He stated that FPF was a growing small
Vermont business that was now across 40% of the State. He explained that the concept of FPF was
to provide a way for neighbors to communicate and build community and communication. The
service is free to neighbors who could access their neighborhood forum and was free to municipal
officials who could access multiple neighborhood forums. In communities of some size like
Burlington, South Burlington and Essex, there was a municipal custom access fee for municipal
Hi Aaron,

We moved the pump station but didn’t change the in/out elevations. The pump station still has a discharge elevation of 312.0 and pumps up to the existing manhole which has an invert elevation of 313.5‘, the forcemain will have a minimum of 5.5-ft of cover (or 4-ft w/ 4” of insulation).

Shawn has revised the attached to include the cleanout manhole detail (SH 9), flow meter manhole detail w/ bypass and auxiliary discharge (SH 9), the same mission telecom equipment we used at Gardenside (SH 8 & 9) and 4 6” steel bollards protecting the station (SH 5 & 7).

Sharon is holding the February 13th meeting for us but she needs your comments by January 8th. Like Gardenside we’ll send you a formal submittal from the manufacturer prior to construction, you could even make that a condition of approval.

Let me know if you’re ok with these new plans, if so I’ll bring Sharon 2 sets. Thanks and have a good Christmas!

Brian

From: Aaron Martin [mailto:amartin@ESSEX.ORG]
Sent: Wednesday, December 18, 2019 10:56 AM
To: Brian Bertsch <bbertsch@omegavt.com>
Cc: ‘Shawn Cunningham’ <scunningham@olearyburke.com>
Subject: RE: 21 Pinecrest

How does relocating the pump station to this new location affect the elevations within the Station on Sheet 8? Details that should be addressed.

Forcemain Cleanout detail (Gardenside Project)
Meter Manhole detail (Gardenside Project)
Auxiliary Discharge (Gardenside Project)
Mission Telecom Equipment for flow meter
Bollard at end of access drive and around station

Thoughts?

Aaron
Hi Aaron,

Attached is a revised drawing with a paved access road, turn around, pump station, flow meter, and clean out manhole. Can you take a look and let me know if it looks good? If so I’ll bring Sharon over a new set of plans so she can put us back on the PC agenda for January.

Thanks!

Brian

---

Ok, thanks for getting right back to me. We’ll send you an updated plan. Talk soon, Brian

---

The access road needs to be paved, and constructed to support a vacstor truck at least. A paved area / hammer head at the pump station will be required. Must have gate to control access and all access easements in place as well.

Aaron

Sent from my iPhone

On Nov 21, 2019, at 9:17 AM, Brian Bertsch <bbertsch@omegavt.com> wrote:

Hi Aaron,

I spoke with Sharon Kelley yesterday and she said you asked for a gravel access road to the pump station. Is 18-ft wide good? If so I’ll ask Shawn at OBCA to add that to the plan.

Thanks!
From: Shawn Cunningham [mailto: scunningham@olearyburke.com]
Sent: Tuesday, October 29, 2019 10:15 AM
To: Brian Bertsch <bbertsch@omegavt.com>; 'Aaron Martin' <amartin@ESSEX.ORG>
Subject: RE: 21 Pinecrest

Hi Aaron, Brian,

Here is an updated pump station detail. We lowered the discharge to 311.5’ giving us 2 feet of grade to get up to the manhole invert in (313.5’). I added a note about making sure the FM maintains a positive slope the whole way. S & L recommends we still have a priming lock loop since it is relatively flat so we will do that as well.

Please let us know if this looks good to you Aaron.

Thanks,
Shawn

From: Brian Bertsch [mailto: bbertsch@omegavt.com]
Sent: Wednesday, October 23, 2019 9:32 AM
To: 'Aaron Martin' <amartin@ESSEX.ORG>
Cc: Shawn Cunningham <scunningham@olearyburke.com>
Subject: FW: 21 Pinecrest

Hi Aaron,

Good chatting with you this morning. I talked with Shawn and he has survey shots on the existing manhole and inverts which we are pumping to which is an invert elevation of 313.5’. SH 8 shows the forcemain out elevation at 316.1 which is just a 3’ minimum distance below the pump station. Both Shawn and I thought that this elevation could be lowered without affecting the depth of the pumpstation or storage requirements but he was going to confirm that with Paul (Paul is out of town but back Monday).

To recap it looks like the elevation of the force main out can be set at 313.0 which would then be lower than the discharge elevation and there then be no need for a priming lock loop. If you are ok with that we can make sure that formal pump station submittal shows this change.

Thanks for catching that!

Brian

From: Brian Bertsch [mailto: bbertsch@omegavt.com]
Sent: Wednesday, October 23, 2019 8:26 AM
To: 'Shawn Cunningham' <scunningham@olearyburke.com>
Subject: 21 Pinecrest
Hi Shawn,

Could you take a look at sheet 7 and confirm the elevation of the existing SMH in front of 9 Joshua Way? The invert in is lower than the forcemain out and it just doesn’t look that way when I’m standing in the field. I’m sure you have survey shots. Can you double check the rim and invert elevations?

Thanks,

Brian

Brian J. Bertsch, P.E., CPESC | Project Manager
Omega Excavation and Site Development, Inc.,
Allen Brook Development Inc, LNP Inc. and A & C Realty LLC
27 Commerce Ave., South Burlington, VT 05403
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c. (802) 238-5020 | www.omegarealtyvt.com

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