



## City of Auburn, Maine

Economic & Community Development

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**To:** Auburn Planning Board  
**From:** Megan Norwood, City Planner II  
**Re:** North River Road (PID 271-101), Final Plan: Proposed 3, 12-Unit Apartment Buildings and associated parking, driveways, landscaping, utilities, & other site improvements in the General Business Zoning District (West Shore Landing Apartments).  
**Date:** February 11, 2020

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**I. PROPOSAL/BACKGROUND (NOVEMBER/JANUARY)** – In November of 2019, the Planning Board began Preliminary Subdivision review pursuant to Chapter 60, Article XVI Division 4, Subdivision, Sec. 60-1359 of the Auburn Code of Ordinances of the North River Road proposed apartments. At the November meeting, the Planning Board tabled the proposal and requested some items be submitted/addressed before moving forward with the Preliminary Plan. The Applicant provided a follow up submission at the January meeting and the Planning Board approved the Preliminary Plan with conditions (discussed below).

As per Sec. 60-1361(f)(1)(2), when granting preliminary approval to a preliminary plan, the Planning Board is required to state the conditions of approval with respect to:

- (1) The specific changes which it will require in the final plan;
- (2) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety and general welfare.

The Planning Board added the following Conditions of Approval to the Preliminary Plan:

- The Applicant shall apply for and receive a Letter of Map Revision, based on fill (LOMR-F) through FEMA before the issuance of a building permit;
- Once final grading and foundation loading has been determined, a final geotechnical report shall be submitted prior to the issuance of a building permit;
- The building height shall be limited to 35 feet as measured from the mean of the gable;
- An addressing plan shall be provided to the Addressing Officer before the issuance of a building permit;
- The final plan submission shall include a summary of how this project “will not adversely affect the character of the surrounding neighborhood and will not tend to depreciate the value of property adjoining the neighboring property under application.”

At the January meeting, the Planning Board also agreed that there is merit in providing for the requested waivers and will make a ruling on them at the February meeting, specifically:

1. *Sec. 60-607(15): On lots where one entrance and exit driveway or curb-cuts is constructed, the curb-cut shall not exceed 32 feet in width. Where two or more driveways or curb-cuts are constructed, the curb-cuts shall not exceed 20 feet in width. For automotive service stations, the curb-cut widths may be increased to 32 feet for each driveway or access but shall not exceed two driveways. These widths may be increased up to a maximum of 44 feet on arterial roads if required by the City Engineering Department or the State Department of Transportation. Waiver to allow for two 24-foot curb-cuts.*
2. *Sec. 60-801(2): No medium or high-volume traffic generator shall have more than one two-way access or two one-way accesses in total onto a single roadway. Waiver to allow for two, two-way accesses onto a single roadway.*

## II. FEBRUARY SUBMISSION (FOLLOW UP FROM JANUARY):

The Final Plan submission for February is a carry-over of the items that were submitted in November and January and addresses the Conditions of Approval and discussion items from the November and January Staff Reports (attached).

Most of the Conditions of Approval the Planning Board placed on the Preliminary Plan in January apply before the issuance of a building permit. However, one specific item the Planning Board requested as part of the final submission is a summary of how this project “*will not adversely affect the character of the surrounding neighborhood and will not tend to depreciate the value of property adjoining the neighboring property under application.*”

Section 3 of the Applicants response does a good job demonstrating the composition of land uses in the neighborhood. Interestingly, the Multifamily Suburban District generally allows for some less intense commercial uses as Special Exceptions reviewed by the Planning Board (such as libraries, professional offices, cemeteries etc.) but these uses are not located outside of the General Business area in this specific neighborhood. The uses in the neighborhood align almost exactly with the Zoning Map (*See Figures 1 and 2 below*).

The pink areas in Figure 1 are commercial uses, the yellow areas are single-family homes and the green areas are multifamily developments (including this proposed development). There are some yellow and green (residential uses) in the General Business District which is to be expected since residential uses are allowed in the General Business District at the same density as the Multifamily Suburban District. However, the Multifamily Suburban District allows for commercial uses as Special Exceptions reviewed by the Planning Board, yet we do not see them outside of the General Business District in this neighborhood. The single and multifamily residential uses are clustered together, and the commercial uses are clustered together. It is Staffs opinion that this project does fit in with the character of the neighborhood.

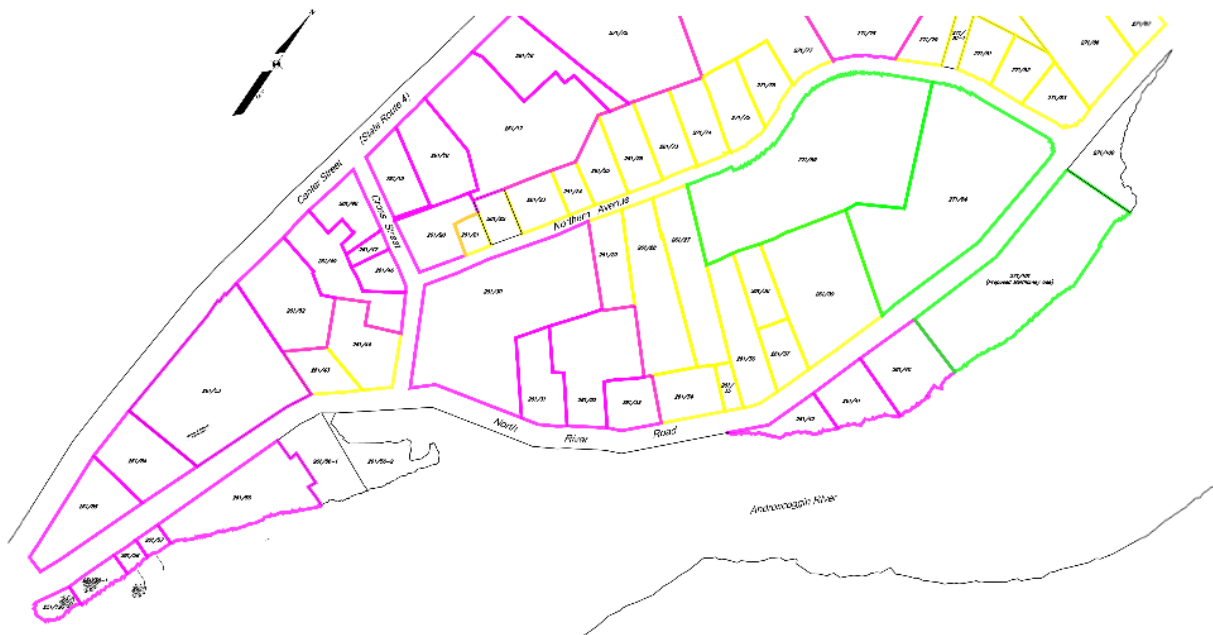


Figure 1: Plan Showing the Composition of Uses Adjacent to the North River Road Parcel with green being Multifamily, yellow being Single Family and Pink being Commercial.

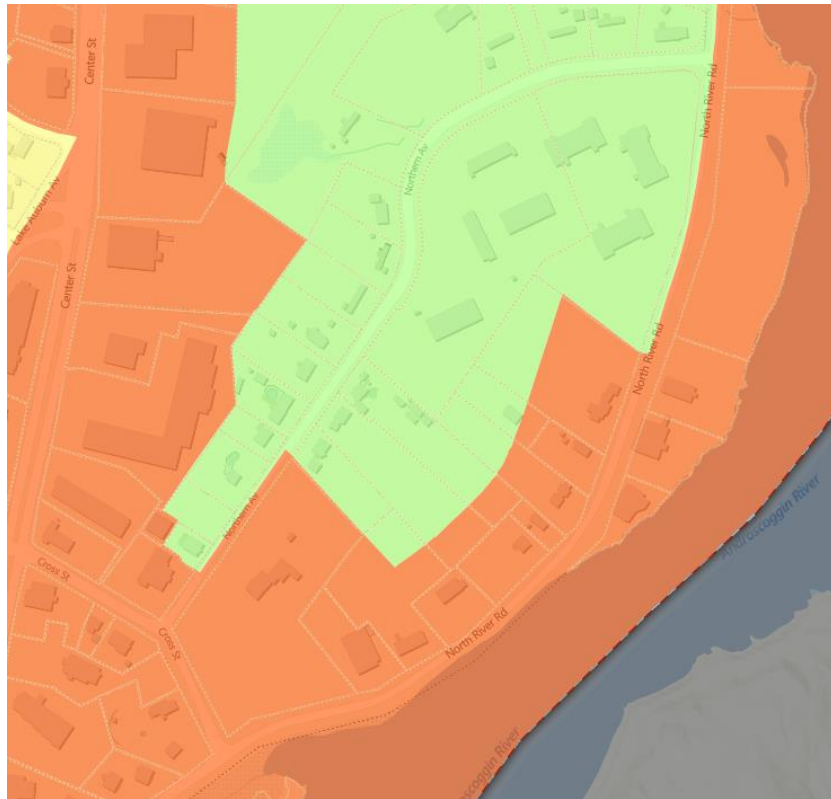


Figure 2: Zoning Map of the North River Road Neighborhood with green being Multifamily Suburban and Orange being General Business.

At the February meeting, the Planning Board will have to review the Recreation and Open Space Standards under Sec. 60-1367 of the Ordinance which requires, as part of a subdivision proposal, recreation and open space which is “adequate to meet the reasonably foreseeable needs of the residents of the subdivision.” **The Planning Boards responsibilities are to determine if the \$34,000 fee in-lieu, 62,288 square feet of open space and 500 feet of private riverfront trail are adequate to meet the needs of the subdivision residents. As part of this responsibility, the Planning Board is required to solicit an opinion from the Parks & Recreation Advisory Board and carefully consider their opinion in the Boards review. In order to determine if the fee in-lieu and open space are adequate to meet the reasonably foreseeable needs of the residents of the subdivision, the Planning Board is required to:**

- **Review the adequacy of existing facilities available to the future subdivision residents and**
- **Assess the projected needs of the inhabitants of the subdivision.**

**The Planning Board is also required to make a determination as to how the \$34,000 should be used, keeping in mind that if it is not used within a 5-year period it goes back to the Developer.**

The Parks & Recreation Advisory Board recommendation is attached and a breakdown of the applicable sections under Sec. 60-1367 is provided in the January Staff Report which is also attached. The Parks & Recreation Advisory Board feels the inhabitants of the subdivision will require: *Safe walking areas, trails, open space, playground and connection to existing trail/walking paths such as the Riverwalk.*

The Parks & Recreation Advisory Board also recommends the fee in-lieu be used: *To connect existing walking trails, where available, to the private trail proposed behind the development. If that is not attainable within 2 years, the Board recommends using the funds to improve an existing park (Chestnut*

on Union Street or the Municipal Beach) OR create a new park (potentially using the open space provided on Northern Avenue).

**III. DEPARTMENT REVIEW** – Department Heads provided the following comments at the very first Development Review Committee meeting in November. Since November, no additional comments have been provided for the Development:

- a. **Police:** The Police Department would be looking for pedestrian and traffic impacts or potential impacts to be considered for a multifamily facility being constructed on a road with little to no shoulder or sidewalks to accommodate additional pedestrian and bike traffic. Also wonder what impact the intersection of Center and Cross Street might see, if any. This can be a difficult intersection at high traffic times of the day when making a left hand turn onto Center Street. This would certainly not be the only road with similar problems on Center Street but again, how much additional traffic will this project generate?

Is there an opportunity here to work with the Developer under City Ordinance Sec. 60-1367 Recreation Area/Open Space Standards – to establish a pedestrian path along the rivers edge that would bring pedestrians and bike traffic closer if not all the way to the intersection of Center Street and North River Road where there is already established crossings and sidewalks?

*The Applicant provided a response to the Police Department concerns in their most recent submission. The project will not exceed or approach an increase of 100 one-way trips in the peak hour which is the trigger for a Traffic Movement Permit. The Parks & Recreation Advisory Board is recommending to use the fee in-lieu to connect this development to the Riverwalk or improve an existing park in the area of this development.*

- b. **Auburn Water and Sewer:** I reviewed the Development Review Application submitted for the River's Edge Apartments, LLC dated 10/3/2019. After the review I have the following comments.

**Sewer:** There currently is no public sewer in the area of the proposed apartments. The proposal includes the installation of a gravity sewer main on North River Road and a pump Station and Force main that will connect to the public sewer on Northern Ave. The District has sufficient capacity to serve this proposed development but we will not accept ownership of the proposed gravity line, pump station or force main. The development will be subject to connection fees based off the size of the water meters installed at each building.

**Water:** The District has sufficient capacity to serve this proposed development with both domestic water and fire protection.

- c. **Fire Department:** After reviewing the provided documentation, I do not have any reservations with your clients request for the 24' curb cuts. If you refer to **NFPA 1 (Edition 2018)** you will find that there is a minimum 20' fire department access road(s) requirement (**NFPA 1: 18.2.3.5.1.1**), as well as a minimum curb cut extending at least 2' beyond each edge of the access road (**NFPA 1: 18.2.3.5.3.3**). With these to code requirements I feel you would meet the 24' opens that you are requesting. Please let me know if you require anything further.  
\*\*\*Note- NFPA 1: 18.2.3.1.2 Fire department access roads shall consist of roadways, fire lanes, parking lot lanes, or a combination thereof.
- d. **Engineering:** Comments on stormwater and the Complete Streets Report were included throughout the January Staff Report.
- e. **Public Services:** No comments.
- f. **Economic and Community Development:** The City is currently underserved for market rate residential units as evidenced by long wait lists at recent apartment projects. Additional apartment units will support growing the labor pool to help alleviate the current regional labor shortage. These high quality apartments in this location should prove to be highly desirable, and could be

an asset when marketing the City. The Department supports growing residential units in appropriately zoned areas of the City.

- g. **Addressing:** Add a condition to the final plan that an addressing plan be coordinated with the Addressing Officer before a building permit is issued.

**IV. PLANNING BOARD ACTION** – The Planning Board has specific review criteria for all proposals that the board is responsible for reviewing. For this proposal, the Planning Board has the following review criteria:

- **Sec. 60-1359. – Subdivision Guidelines.**
- **Sec. 60-1365. – General Requirements (for Subdivisions).**
- **Sec. 60-899. – Review of Subdivisions in the Floodplain.**

Since these are the standards the Planning Board is required to consider when reviewing Subdivision applications, it may be a useful exercise to go through them one by one as part of the Final Plan decision. The Applicant has provided responses to each of the standards describing how they feel the proposal meets the standards. Staff has included those responses below in the Staff Report.

**Sec. 60-1359. – Subdivision Guidelines.** When reviewing any subdivision for approval, the planning board shall consider the following criteria, and before granting either approval or denial, shall determine that the proposed subdivision:

- (1) Will not result in undue water, air or noise pollution. In making this determination it shall at least consider:
  - (a) The elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal;  
The proposed development will be elevated at least one foot above the base flood elevation of 177.25 (NAVD88). The buildings will be serviced by public sewer by way of a private pump station and force main. Please see the Geotechnical Report from Summit Geoengineering Services, Inc. for more information regarding soils (to be provided prior to public hearing).
  - (b) The slope of the land and its effect on effluents;  
The proposed development will be serviced by public sewer by way of a private pump station and force main.
  - (c) The availability of streams for disposal of effluents; and  
The proposed development will be serviced by public sewer by way of a private pump station and force main.
  - (d) The applicable state and local health and water resources regulations, including stormwater management requirements in accordance with section 60-1301(14);  
The proposed project was designed to meet Maine DEP Chapter 500 requirements for stormwater treatment using approved BMP measures. Treatment will be provided for stormwater runoff from 95% of the proposed impervious areas and 80% of the proposed developed areas. Stormwater treatment will be provided by two underdrained soil filters and roof drip edge filters at each of the three buildings. Please see the project's Stormwater Management Report prepared by Terradyn Consultants, LLC.
- (2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;  
The proposed project will be serviced by public water service; a 6" water main exists within North River Road.
- (3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;  
Per Auburn Water & Sewer, "the District has sufficient capacity to serve this proposed development with both domestic water and fire protection." See Planning Department Staff Memo dated November 12, 2019
- (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;  
A full stormwater report and erosion control plan for the project has been developed. Stormwater will be treated on site with the use of two underdrained soil filters and roof drip edge filters, all elevated above the base flood elevation.
- (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;



Data from turning movement counts for North River Rd at the intersection with Center Street from 2018, as provided by AVCOG, was reviewed for this project. Maine DOT lists the traffic count on North River Rd. from Center St. to Cross St. as having a 2017 AADT of 1,420 and from Cross St. to Northern Ave. as having a 2017 AADT of 879. Based on the AVCOG study, the peak hour of traffic coming off of North River Rd onto Center St. is at 12PM to 1PM with 107 vehicles. We believe that the proposed 36 units would not substantially change the traffic load at this intersection. For example, of the 54 parking spaces dedicated to these 36 units, if 35 of the vehicles occupying these spaces left the premises between 7AM and 8PM, turned left onto North River Road and continued to the Center St. intersection, then 35 turning movements could be added to the AVCOG hourly total for this timeframe of 71, creating a new hourly total of 106, which does not exceed the peak hour. Additionally, it can be assumed that some of these vehicles will turn right onto Cross St to head North on Center Street. It is unlikely that more than 35 vehicles will leave the premises within the same hour, or that a residential use will substantially contribute to the lunchtime peak hour turning movements for either intersection. The project will not exceed or approach an increase of 100 one-way trips in a peak hour.

- (6) Will provide for adequate sewage waste disposal;  
The proposed development will be serviced by public sewer by way of a private pump station and force main.
- (7) Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;  
Per the Auburn Water and Sewer District, "the District has sufficient capacity to serve this proposed development but will not accept ownership of the proposed gravity line, pump station or force main." The developer accepts ownership and maintenance responsibility of that section of utilities, including gravity line, pump station and force main, to connect to public sewer. See Order of Conditions #5 of Subdivision Plan.
- (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;  
The proposed use is in line with existing uses within the surrounding neighborhood. The proposed development will not impact wetlands on site and all site disturbances will be set back a minimum of twenty-five feet from the top of bank of the adjacent river. The project area is not located within a historic district, nor are there any existing historic uses or structures located on or adjacent to the project area. Please see attached Incidental Take Letter regarding the northern long-eared bat as well as letters regarding how the project will have no impact on Atlantic Salmon and Small Whorled Pogonia.
- (9) Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any;  
The project as proposed conforms to State and local subdivision standards. Please refer to the provided Subdivision Plan. The project will conform to the City's Comprehensive Plan.
- (10) Is funded by a subdivider which has adequate financial and technical capacity to meet the standards of this section;  
The developer has adequate financial and technical capacity to meet the standards. Please see the attached Letter of Financial Capacity from First National Bank.
- (11) Will not adversely affect the character of the surrounding neighborhood and will not tend to depreciate the value of property adjoining the neighboring property under application;  
The proposed development will not adversely affect the character of the surrounding neighborhood, nor depreciate the value of the property adjoining. Please see the attached narrative and supporting documents illustrating the current character of the neighborhood.
- (12) Has provisions for on-site landscaping that are adequate to screen neighboring properties from unsightly features of the development;  
Please see the attached landscaping plan. Landscaping is proposed throughout the subject parcel, including a landscaped buffer between the development and the road. The apartment buildings across the street are elevated well above the subject parcel. The abutting property to the south is occupied by a well-maintained commercial building and the abutting property to the North is vacant and is elevated below the subject parcel. As such, we believe that the proposed development provides for adequate screening to neighboring properties and that the proposed development itself will be an attractive feature of the neighborhood.
- (13) Will not create a fire hazard and has provided adequate access to the site for emergency vehicles;

Easy access to the site will be provided to emergency vehicles by way of two, two-way driveway entrances that are connected within the development. Please see the attached Waiver requests regarding width of curb cuts as well as a letter from the fire inspector.

- (14) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;

The proposed residential use is not indicative of one that would adversely affect the quality or quantity of groundwater. The subject parcel is not located within a groundwater protection district. Stormwater from impervious surfaces will be treated prior to ground infiltration.

- (15) Does not have long-term cumulative effects of the proposed subdivision will that unreasonably increase a great pond phosphorus concentration during the construction phase and life of the proposed subdivision.

The subject parcel is not located within a great pond watershed. Erosion control BMP's will be implemented to prevent silts from entering the river during construction.

### **C. Sec. 60-1365. General Requirements.**

In reviewing applications for the subdivision of land, the board shall consider the following general requirements. In all instances the burden of proof shall be upon the persons proposing the subdivision.

- (1) *Subdivision plan shall conform to the comprehensive plan.* Any proposed subdivision shall be in conformity with the comprehensive plan of the city and with the provisions of all pertinent state and local codes and ordinances.
- (2) *Preservation of natural and historic features.* The board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.
- (3) *Lots.* a. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated. b. Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated. c. No personal shall make a subdivision within the city unless all lots of the proposed subdivision have frontage, as regulated by the zoning ordinance, upon a way granting legal access.

### **Sec. 60-899. – Review of Subdivisions and Development Proposals (Floodplain).**

The Planning Board shall, **when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations** and all projects on five or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- (a) All such proposals are consistent with the need to minimize flood damage.  
The proposed development will be elevated a minimum of one-foot above the base flood elevation.
- (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.  
All public utilities that enter the site are above the base flood elevation. The proposed private sanitary pump station and force main will be a closed, watertight system. The access hatch to the pump station will be elevated above the base flood elevation.
- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.  
Site conditions allow for easy drainage of the site. Please refer to the stormwater plan for additional details.
- (d) All proposals include base flood elevations, flood boundaries, and, in riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

Floodway and resultant floodplain are shown on the subdivision plan and site plan. An Order of Conditions requiring that the applicant receive a Letter of Map Revision based on Fill (LOMR-F) from FEMA be obtained prior to issuance of a building permit has been added to the subdivision plan.

- (e) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area, are to be constructed in accordance with section 60-897 of this division. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat or plan to be signed by the planning board or local reviewing authority as part of the approval process.

Please see the order of conditions on the subdivision plan.

**V. STAFF RECOMMENDATIONS** – Under Sec. 60-1362(b) The Planning Board is required, within 30 days after the public hearing on a final plan, to conditionally approve, approve, approve with conditions, or disapprove the final plan. Any such decision of the Planning Board shall include findings of fact, and any approval with conditions or disapproval shall be accompanied by the reasons therefor in writing. Staff has the following recommendations for the Planning Board:

1. That the Planning Board make a ruling on the two submitted waivers:
  - Sec. 60-607(15): On lots where one entrance and exit driveway or curb-cut is constructed, the curb-cut shall not exceed 32 feet in width. Where two or more driveways or curb-cuts are constructed, the curb cuts shall not exceed 20 feet in width. For automotive service stations, the curb cut widths may be increased to 32 feet for each driveway or access, but shall not exceed two driveways. These widths may be increased up to a maximum of 44 feet on arterial roads if required by the city engineering department or the state department of transportation. *Waive this requirement to allow for two 24-foot curb-cuts.*
  - Sec. 60-801(2): No medium or high volume traffic generator shall have more than one two-way access or two one-way accesses in total onto a single roadway. *Waive this requirement to allow for two, two-way accesses onto a single roadway.*
2. That the Planning Board review the materials submitted and Staff Report pertaining to the Character of the Neighborhood discussed at the January meeting.
3. That the Planning Board review the Applicants responses to the Subdivision Criteria and Floodplain Standards.
4. That the Planning Board review the requirements under Sec. 60-1367 Recreation and Open Space. Is the \$34,000 fee in-lieu, 62,288 square feet of open space and 500 feet of private riverfront trail adequate to meet the needs of the subdivision residents? How should the fee in-lieu be used?

There were a number of conditions discussed at the January meeting that applied before the issuance of a building permit. We recommend the Planning Board include them as part of the final plan decision. Condition #5 was added to satisfy the comments/concerns of the Auburn Water & Sewer Department and Condition #6 was added to address the floodplain requirements (60-899(e)).

1. The Applicant shall apply for and receive either their Letter of Map Revision, based on fill (LOMR-F) through FEMA or a Flood Hazard Development Permit with the City before the issuance of a building permit;
2. Once final grading and foundation loading has been determined, a final geotechnical report shall be submitted prior to the issuance of a building permit;
3. The building height shall be limited to 35 feet as measured from the mean of the gable;



4. An addressing plan shall be provided to the Addressing Officer before the issuance of a building permit;
5. The Owner/Applicant of this development and the subject parcel accepts responsibility to own, construct and maintain the proposed section of sewer main that will connect to the public sewer system. The Applicant shall acquire the necessary easements from the City to construct, maintain and repair such private sewer lines within the right of way of North River Road and Northern Avenue prior to the issuance of a building permit;
6. The Development is to be constructed in accordance with Section 60-897. This condition shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an interest to transfer any interest in real estate or structure, including but not limited to a time-share interest. The municipality may enforce any violation of this construction requirement, and the fact shall also be included in the deed or any other document previously described;
7. The Owner/Applicant shall obtain all applicable DEP permits prior to the issuance of a building permit.

***Suggested Motion:*** *I will make a motion to approve the final plan to construct 3, 12-unit apartment buildings on North River Road (PID 271-101) in the General Business, Shoreland Zoning Districts with the following conditions:*

1. *The Applicant shall apply for and receive either their Letter of Map Revision, based on fill (LOMR-F) through FEMA or a Flood Hazard Development Permit with the City before the issuance of a building permit;*
2. *Once final grading and foundation loading has been determined, a final geotechnical report shall be submitted prior to the issuance of a building permit;*
3. *The building height shall be limited to 35 feet as measured from the mean of the gable;*
4. *An addressing plan shall be provided to the Addressing Officer before the issuance of a building permit;*
5. *The Owner/Applicant of this development and the subject parcel accepts responsibility to own, construct and maintain the proposed section of sewer main that will connect to the public sewer system. The Applicant shall acquire the necessary easements from the City to construct, maintain and repair such private sewer lines within the right of way of North River Road and Northern Avenue prior to the issuance of a building permit;*
6. *The Development is to be constructed in accordance with Section 60-897. This condition shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an interest to transfer any interest in real estate or structure, including but not limited to a time-share interest. The municipality may enforce any violation of this construction requirement, and the fact shall also be included in the deed or any other document previously described;*
7. *The Owner/Applicant shall obtain all applicable DEP permits prior to the issuance of a building permit.*

*Megan Norwood*

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Megan Norwood  
City Planner II